

THE METROPOLITAN  
BUILDING ACTS

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GLEN.



117  
PRICE 21s.,

THE

# Metropolis Local Management Acts,

TO WHICH IS

Added an Appendix containing other Statutes relating to  
the Powers and Duties of the Metropolitan Board  
of Works, Vestries and District Boards  
of the Metropolis, with

*TABLE OF CASES, NOTES, AND INDEX.*

Second Edition.

BY

**E. H. WOOLRYCH, Esq.,**

*Late one of the Metropolitan Magistrates.*

Dedicated by Permission to Lieut. Col. Sir J. M. McGarel-Hogg, Bart.,

Metropolitan Board of Works.



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*Shirley F. Mumby*

THE

# Metropolitan Building Acts,

1855 TO 1882.

WITH APPENDICES

CONTAINING THE BUILDING CLAUSES OF  
THE METROPOLIS LOCAL MANAGEMENT ACTS AND OF  
THE CITY OF LONDON SEWERS ACTS; ALSO BYE-LAWS, REGULATIONS,  
CIRCULARS, AND OTHER OFFICIAL DOCUMENTS OF  
THE METROPOLITAN BOARD OF WORKS.

WITH NOTES, CASES, AND INDEX.

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## P R E F A C E .

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THIS Collection of Statutes embraces all the Building Acts which are in force within the metropolitan area—that is, the City of London and the places mentioned in Schedules A., B., and C., to the Metropolis Management Act, 1855; together with the decisions of the Courts upon the several enactments.

The Appendices contain the other Statutes which have relation to buildings in the metropolis, including the building sections of the Metropolis Local Management Acts and of the City of London Sewers Acts, 1848 and 1851.

The Bye-laws and Regulations of the Metropolitan Board of Works and of the Commissioners of Sewers of the City of London as to the formation of new streets in the metropolis, and as to buildings and other matters, are also set forth *in extenso*, together



with the Regulations and Circulars issued from the Superintending Architect's Department of the Metropolitan Board of Works.

Further, to enhance the usefulness of this work to architects, builders and others, useful papers by Professor Donaldson, Past-President of the Institute of British Architects, containing suggestions to builders, and the " Heads of conditions of builders' contracts," and " Professional practice and charges of architects," as sanctioned by the Royal Institute of British Architects, have been added.

The Work, it is hoped, will commend itself to the profession of architects, builders, and district surveyors in the metropolis.

3, ELM COURT, TEMPLE,

*20th March, 1883.*

W. C. G.

R. C. G.



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# THE METROPOLITAN BUILDING ACTS.

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18 & 19 VICT. CAP. 122.

*An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood.*  
[14th August, 1855.]

WHEREAS it is expedient that the laws relating to buildings in the metropolis and its neighbourhood should be amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows; (that is to say,)

## PRELIMINARY.

I. This Act may be cited for all purposes as “The Metropolitan Building Act, 1855.” Short title.

II. This Act shall, except in cases where it is otherwise expressly provided, come into operation on the first day of January, one thousand eight hundred and fifty-six. Commencement of Act.

III. In the construction of this Act (if not inconsistent with the context) the following terms shall have the respective meanings hereinafter assigned to them; (that is to say,)

“The treasury” shall mean the commissioners of Her Majesty's treasury:



Section 3.  
contd.

“Public buildings” shall mean every building used as a church, chapel, or other place of public worship; also every building used for purposes of public instruction; also every building used as a college, public hall, hospital, theatre, public concert room, public ball-room, public lecture-room, public exhibition room, or for any other public purposes:

“External wall” shall apply to every outer wall or vertical enclosure of any building not being a party wall:

In an action upon a covenant to repair in a lease, Lord DENMAN, C. J., said, “The external parts of premises are those which form the inclosure of them, and beyond which no part of them extends: and it is immaterial whether those parts are exposed to the atmosphere, or rest upon and adjoin some other building which forms no part of the premises let.”

The facts of the case were that one of two adjoining houses having been pulled down by a corporation acting under a local statute, the wall of the premises in question, which previously divided the two houses, was left without support and gave way, rendering the house uninhabitable. *Held*, that the wall, even before the neighbouring house had been removed, was an external part of the demised premises, and defendant was liable under his covenant: *Green v. Eales*, 2 Q. B. 225.

“Party wall” shall apply to every wall used or built in order to be used as a separation of any building from any other building, with a view to the same being occupied by different persons:

Whether a wall is a party wall or not depends upon the mode in which it is used, and it is only a party wall so far as it is used as a support for adjacent buildings.

The owner of a boundary wall on his own land built some closets against it, and the adjoining owner had recently built a substantial structure, it was held that so far as these buildings extended against both sides of the wall it was a party wall within this Act: *Knight v. Pursell*, L. R. 11 Ch. D. 412; 48 L. J. Ch. 395; 40 L. T. (N. S.) 391; 27 W. R. 817; 43 J. P. 622.

“Cross wall” shall apply to every wall used or built in order to be used as a separation of one part of



Section 3.  
contd.

any building from another part of the same building, such building being wholly in one occupation :  
“ Party structure ” shall include party walls, and also partitions, arches, floors, and other structures separating buildings, stories, or rooms which belong to different owners, or which are approached by distinct staircases or separate entrances from without :

The “ area ” of every building shall be deemed to be the superficies of a horizontal section of such building made at the point of its greatest surface including the external walls and such portion of the party walls as belong to the building, but excluding any attached building the height of which does not exceed the height of the ground storey :

“ The base of the wall ” shall mean the course immediately above the footings :

“ Owner ” shall apply to every person in possession or receipt either of the whole or of any part of the rents or profits of any land or tenement, or in the occupation of such land or tenement other than as a tenant from year to year or for any less term, or as a tenant at will :

By the 97th section, *post*, the adjoining and building owners are included in the term “ owner.”

So where E., the owner in fee of land, agreed to let it to S. on a building lease for eighty-one years, at a peppercorn rent for the first year, 6*l.* the second, and 12*l.* per annum for the remainder of the term; and S. entered under the agreement and commenced building houses, in respect of which, during the first year of the tenancy, certain fees became payable to the district surveyor under sect. 51, *post*, from the “ builder, owner, or occupier of the buildings : ” The court *held*, that E. was not liable, for that he was not “ owner ” within the meaning of sects. 3 and 51: *Evelyn v. Whichcord*, 27 L. J. M. C. 211; 31 L. T. (o.s.) 96; 6 W. R. 468; 22 J. P. 658; 4 Jur. (N.S.) 808; E. B. & E. 126 See also *Cowen v. Phillips*, 33 Beav. 18; 9 Jur. (N.S.) 657; 11 W. R. 706; 8 L. T. (N.S.) 622.



## Section 3.

Note con.

By sect. 73 of this Act, expenses incurred by the commissioners in taking down, repairing, or otherwise securing dangerous structures, shall be paid by the owner of such structure; and where a chapel was leased by A. B. to C. D. for 21 years, and expenses were incurred by the commissioners under the Metropolitan Building Act under section 73 of that Act, such expenses were held to be recoverable from C. D., who was the owner as designated by this section, and not from A. B., *COCKBURN, C. J.*, saying that "The owner is the party primarily liable, and upon his default the occupier is liable. In this case the appellants are the lessors of premises to a person of the name of Neil, and he is lessee for a term of 21 years. It is plain that Neil being the lessee of the tenement, he is the owner of it. But it is said he is not liable because he is not in the occupation of it. The tenement is a chapel used on Sundays, and on other days it is shut up. The occupation must be taken subject to the nature of the premises. He is an occupier with a greater interest than from year to year: *Reg. v. Mourilyan and another*, 3 L. T. (N.S.) 668; *S. C. nom. Mourilyan v. Labalmondiere*, 30 L. J. M. C. 95; 25 J. P. 340; 7 Jur. (N.S.) 627. See also *Wheeler v. Gray*, *post*, p. 58, and *Cudwell v. Hanson*, *post*, p. 41.

The incumbent of a district church in the metropolis, although the freehold of such church was vested in him under the Church Buildings Acts, was held not to be the "owner" of the church within the meaning of this definition: *Reg. v. Lee*, L. R. 4 Q. B. D. 75; 48 L. J. M. C. 22; 39 L. T. (N.S.) 605; 43 J. P. 302.

And it has been held, under a similar definition in the Metropolitan Building Act of 1844, that a tenant for life of a reversion was not the owner of the premises which were let for 21 years, although at the time the tenant was exempted from rent under a covenant, the premises having been burnt down: *Ex parte The Overseers of Saffron Hill*, 24 L. J. M. C. 56; 24 L. T. (O.S.) 118; 18 Jur. 1104.

But the lessee for a term of years of one of two adjoining houses who underlet the whole of the house in parts, reserving to himself the rents, was held to be the owner of the premises within the meaning of this section: *Hunt and another v. Harris*, 19 C. B. (N.S.) 13; 34 L. J. C. P. 249; 13 L. T. (N.S.) 742; 11 Jur. (N.S.) 485; 13 W. R. 742.

"Builder" shall apply to and include the master builder or other person employed to execute or who actually executes any work upon any building:

"District surveyor" shall mean every such surveyor who is appointed in pursuance of this Act, or whose appointment is hereby confirmed, and shall



include any deputy or assistant surveyor appointed under this Act :

Section 3.  
*contd.*

In all cases in which the name of an officer having local jurisdiction in respect of his office is referred to without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the officer having jurisdiction in that place within which is situated the building or other subject matter or any part thereof to which such reference applies :

“ Person ” shall include “ a body corporate.”

This Act and the Acts amending the same and Part III. of the 45 Vict. c. 14, *post*, are to be construed together as one Act.

#### LIMITS OF ACT.

IV. This Act shall extend to all places within the limits of the metropolis as defined by an Act passed in the present session of parliament, intituled *An Act for the better local Management of the Metropolis*, and to all other places to which such last-mentioned Act may be extended, unless such places are in making such extension expressly excepted from the operation of this Act ; but nothing herein contained shall affect the exercise of any powers vested by any Act of parliament in the commissioners of sewers of the city of London for the time being.

Act to extend to all places within limits defined by 18 & 19 Vict. c. 120.

See 11 & 12 Vict. c. cxliii., and 14 & 15 Vict. c. xci., as to the powers of the commissioners of sewers for the city of London.

The following are the limits of the metropolis as defined by the Metropolis Local Management Act, 1855, section 250 :

#### SCHEDULE (A.)

##### PART I.

*Parishes each electing Two Members of the Metropolitan Board of Works.*

Saint Marylebone; Saint Pancras; Lambeth; Saint George, Hanover Square; Saint Mary, Islington; Saint Leonard, Shoreditch.



Section 4.  
Sched. con.

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## PART II.

*Parishes each electing One Member of the Metropolitan Board of Works.*

Paddington; Saint Matthew, Bethnal Green; Saint Mary, Newington, Surrey; Camberwell; Saint James, Westminster; Saint James and Saint John, Clerkenwell, to be considered as one parish; Chelsea; Saint Mary Abbot, Kensington; Saint Luke, Middlesex; Saint George the Martyr, Southwark; Bermondsey; Saint George-in-the-East; Saint Martin-in-the-Fields; Hamlet of Mile End Old Town; Woolwich; Rotherhithe; Saint John, Hampstead.

## SCHEDULE (B.)

PARISHES UNITED INTO DISTRICTS FOR THE PURPOSES OF THE ACT.

## PART I.

*Districts each electing One Member of the Metropolitan Board of Works.*

WHITECHAPEL DISTRICT.—Saint Mary, Whitechapel; Christchurch, Spitalfields; Saint Botolph-without-Aldgate, in the county of Middlesex; Holy Trinity, Minories; Saint Katherine, Precinct of; Mile End New Town, Hamlet of; Liberty of Norton Folgate; Old Artillery Ground; Tower, District of.

WESTMINSTER DISTRICT.—Saint Margaret; Saint John the Evangelist.

GREENWICH DISTRICT.—Saint Paul, Deptford, including Hatcham; Saint Nicholas, Deptford; Greenwich.

WANDSWORTH DISTRICT.—Clapham; Tooting Graveney; Streatham; Saint Mary, Battersea, excluding Penge; Wandsworth; Putney, including Roehampton.

HACKNEY DISTRICT.—Hackney; Saint Mary, Stoke Newington.

SAINT GILES DISTRICT.—Saint-Giles-in-the-Fields; Saint George, Bloomsbury.

HOLBORN DISTRICT.—Saint Andrew, Holborn-above-Bars; Saint George the Martyr; Saint Sepulchre, in the county of Middlesex; Saffron Hill, Hatton Garden, Ely Rents, and Ely Place; The Liberty of Glasshouse Yard.

STRAND DISTRICT.—Saint Anne, Soho; Saint Paul, Covent Garden; Saint John the Baptist, Savoy, or Precinct of the Savoy; Saint Mary-le-Strand; Saint Clement Danes; Liberty of the Rolls.

FULHAM DISTRICT.—Saint Peter and Saint Paul, Hammer-smith; Fulham.



LIMEHOUSE DISTRICT.—Saint Anne, Limehouse; Saint John, Wapping; Saint Paul, Shadwell; Rateliff, Hamlet of.

POPLAR DISTRICT.—All Saints, Poplar; Saint Mary, Stratford-le-Bow; Saint Leonard, Bromley.

SAINT SAVIOUR'S DISTRICT.—Christchurch'; Saint Saviour (including the Liberty of the Clink).

Section 4.  
Sched. con.

## PART II.

*Districts united for electing One Member of the Metropolitan Board of Works.*

PLUMSTEAD DISTRICT UNITED WITH LEWISHAM DISTRICT.—Charlton-next-Woolwich; Plumstead; Eltham; Lee; Kidbrooke; Lewisham, including Sydenham Chapelry; Hamlet of Peuge.

## PART III.

*Parish and District united for electing One Member of the Metropolitan Board of Works.*

THE PARISH OF ROTHERHITHE UNITED WITH SAINT OLAVE DISTRICT.—Saint Olave; Saint Thomas, Southwark; Saint John, Horselydown.

## SCHEDULE (C.)

The Close of the Collegiate Church of Saint Peter; The Charter House; Inner Temple; Middle Temple; Lincoln's Inn; Gray's Inn; Staple Inn; Furuival's Inn.

V. This Act shall be divided into five parts :

Division of Act

- (1.) The first part relating to the regulation and supervision of buildings :
- (2.) The second part relating to dangerous structures :
- (3.) The third part relating to party structures :
- (4.) The fourth part relating to miscellaneous provisions :
- (5.) The fifth part relating to the repeal of former Acts, and to temporary provisions.



PART I.  
Regulation and  
Supervision of  
Buildings.

PART I.

REGULATION AND SUPERVISION OF BUILDINGS.

Section 6.

Buildings, &c.,  
herein named  
exempt from  
operation of  
Part I. of this  
Act.

VI. The following buildings and works shall be exempt from the operation of the First Part of this Act :

Bridges, piers, jetties, embankment walls, retaining walls, and wharf or quay walls :

Her Majesty's royal palaces, and any building in the possession of Her Majesty, Her Heirs and Successors, or employed for Her Majesty's use or service :

A building intended to be the dépôt for the arms, &c., of the London Militia (which are the property of the Crown), belonging to and erected by the Commissioners of Lieutenancy for London under the Militia Acts, and paid for pursuant to those Acts by the Trophy Tax, was held to be exempt from the operation of this Act, as a "building employed in Her Majesty's service." Lord CAMPBELL, C.J.—"It is immaterial by whom the building is erected and maintained, the question is, for what purpose is it employed?" *Jay v. Hammon*, 27 L. J. M. C. 25 ; 4 Jur. (N.S.) 407, S. C. *Reg. v. Jay*, 8 E. & B. 469 ; and *Jay v. Hammond*, 30 L. T. (O.S.) 133 ; 6 W. R. 41 ; 22 J. P. 527. See also 41 & 42 Vict. c. 32, s. 25, *post*.

Common gaols, prisons, houses of correction, and places of confinement under the inspection of the inspectors of prisons, and Bethlehem hospital, and the house of occupations adjoining :

Now by the Prisons Act, 1877, 40 & 41 Vict. c. 21, s. 5, all prisons to which that Act applies are transferred to and vested in one of Her Majesty's Principal Secretaries of State, referred to in the Act as the Secretary of State.



The Mansion House, Guildhall, and Royal Exchange of the City of *London* : Section 6.  
contd.

The offices and buildings of the Governor and Company of the Bank of *England* already erected, and which now form the edifice called “The Bank of *England*,” and any offices and buildings hereafter to be erected for the use of the said governor and company, either on the site of or in addition to and in connexion with the said edifice :

The buildings of the *British* Museum :

The offices and buildings of the honourable *East India* Company already erected, and any offices or buildings hereafter to be erected, for the use of the said company, on the site of or in addition to such existing offices and buildings :

By 21 & 22 Viet. c. 106, s. 1, all rights, &c., of the East India Company became vested in Her Majesty.

*Greenwich* Hospital and the buildings in the parish of *Greenwich* vested in the commissioners of *Greenwich* Hospital for the purposes of the said hospital :

*Quære* as to the portion of *Greenwich* Hospital which is now used as the “Dreadnought Hospital” for sailors of all nations, and which was leased to the Seamen’s Hospital Society to be used for that purpose.

All county lunatic asylums, sessions houses, and other public buildings belonging to or occupied by the justices of the peace of the county or city in which the same are situated :

The erections and buildings authorized by an Act passed in the Ninth Year of the reign of His late Majesty King *George* the Fourth, for the purposes of a market in *Covent Garden* :



Section 6. The cattle market, with its appurtenances, erected  
*contd.* in pursuance of the Metropolitan Cattle Market  
 Act, 1851 :

The buildings belonging to any canal, dock, or railway company, and used for the purposes of such canal, dock, or railway, under the provisions of any Act of parliament :

A railway was constructed upon a viaduct formed of arches of brickwork, standing upon ground belonging to the company, forming an essential part of the viaduct, and used for the purposes of the railway. The company erected at each end of three of the arches a brick wall, with doors and other openings therein, thus inclosing spaces which were divided into two storeys, and which P. occupied as stables, by permission of the company. On the 1st of January, 1856, certain alterations were made in the brick walls erected at the ends of the arches, and the respondent, the surveyor appointed under this Act, claimed to be entitled to certain fees as such surveyor. The company having refused to pay the fees claimed, on the ground that the buildings were exempted under this section, were convicted by a magistrate for such refusal. *Held*, upon appeal against this decision, that these inclosed arches fell within the above exemption, and, therefore, that the conviction was wrong, Lord CAMPBELL, C. J., saying, "I think that by the exemption in section 6, these stables are taken out of the operation of the statute. At the same time I would advise the owners of the property to avail themselves of the provisions of section 56, under which they may lay a plan before the board, and obtain its sanction for the erection of these places. The main part was erected for the purposes of the railway, and the remainder is not a "building:" *North Kent Railway Company v. Badger*, 27 L. J. M. C. 106; 30 L. T. (o. s.) 285; 6 W. R. 246; 4 Jur. (N. S.) 454; S. C. *Re Badger*, 8 E. & B. 728.

But arches occupied as cellars underneath a roadway were held to be buildings under section 7 of the Gas Works Clauses Act, 1847: *Thompson v. Sunderland Gas Company*, L. R. 2 Exch. D. 429; 46 L. J. Exch. 710; 37 L. T. (N. S.) 30.

All buildings, not exceeding in height thirty feet, as measured from the footings of the walls, and not exceeding in extent one hundred and twenty-five thousand cubic feet, and not being public build-



Section 6.  
*contd.*  

---

ings, wholly in one occupation, and distant at least eight feet from the nearest street or alley, whether public or private, and at the least thirty feet from the nearest buildings and from the ground of any adjoining owner :

All buildings not exceeding in extent two hundred and sixteen thousand cubic feet, and not being public buildings, and distant at least thirty feet from the nearest street or alley, whether public or private, and at the least sixty feet from the nearest buildings and from the ground of an adjoining owner :

All party fence walls and greenhouses so far as regards the necessary woodwork of the sashes, doors, and frames :

Openings made into walls or flues for the purpose of inserting therein ventilating valves of a superficial extent not greater than forty square inches, if such valves are not nearer than twelve inches to any timber or other combustible material.

By 24 & 25 Vict. c. 87, s. 1, the first part of this Act is not to apply to any building erected or to be erected with the sanction of the commissioners for the exhibition of 1851, on any lands belonging to them and purchased in pursuance of any power vested in them by Charter or Act of Parliament, with the exception of such streets or blocks of buildings as may be erected by them or with their sanction as private dwelling houses. And by 28 Vict. c. 49, s. 18, all buildings erected on the lands prescribed as the site for the new courts of justice are also exempt from the operation of the first part of this Act. So also by 34 & 35 Vict. c. 39, are the buildings already erected, and that may be thereafter erected on the site of Deptford dockyard, for a new cattle market exempted from Part I. of this Act. And by 23 & 24 Vict. c. 52, s. 2, the rules as to cubical dimensions under this Act are not to apply to buildings to be used for the manufacture of machinery and boilers of steam vessels subject to certain provisions; see *post*.



## Section 7.

Application of Act, except exemptions before mentioned.

VII. With the exemptions herein-before mentioned, this Act shall apply to all new buildings; and whenever mention is herein made of any building, it shall, unless the contrary appears from the context, be deemed to imply a new building.

A contract for the erection of a building in contravention of the provisions of this Act cannot be enforced.

And where it was sought to evade the Act by erecting a structure of wood of considerable size and intended to be used permanently as a shop, but which was not let into the ground, but merely laid upon timbers on the surface of the ground, *ERLE, C. J.*, said, in holding it to be a "building" within the Act, "Though by the application of mechanical power a structure of considerable size may be removed, it does not cease to be a 'building' within the meaning of the Act." And *CROWDER, J.*—"I agree with the Lord Chief Justice that it is enough that there is a foundation of some kind to which the superstructure is to be attached."

Per *BYLES, J.*—"By 'a building' is usually understood a structure of considerable size, and intended to be permanent, or at least to endure for a considerable time."

*Stevens v. Gourley*, 7 C. B. N. S. 99; 1 L. T. (N. S.) 33; 29 L. J. C. P. 1; 6 Jur. (N. S.) 147; 8 W. R. 85.

Building, when deemed to be new.

VIII. A building shall be deemed to be new whenever the enclosing walls thereof have not been carried higher than the footings previously to the said First day of *January*, one thousand eight hundred and fifty-six: Any other building shall be deemed to be an old building.

It would appear that the 8th section applies only to buildings which were commenced before the 1st of January, 1856. *CROWDER, J.*, and *BYLES, J.*, in *Stevens v. Gourley*, *ubi supra*, and according to *Tear v. Freebody*, 4 C. B. (N. S.) 228, the term "enclosing walls" is not satisfied by two mere boundary walls at either side of the ground, and where a person contracted to build according to plans, and in conformity with the rules of the Metropolitan Board of Works, and built in contravention of such rules he was ordered to rebuild: *Cubitt v. Smith*, 11 L. T. (N. S.) 298; 10 Jur. (N. S.) 1123.

Alterations of and addition to old buildings.

IX. Any alteration, addition, or other work made or done for any purpose except that of necessary repair



Section 9.  
*contd.*  

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not affecting the construction of any external or party wall, in, to, or upon any old building, or in, to, or upon any new building after the roof has been covered in, shall, to the extent of such alteration, addition, or work, be subject to the regulations of this Act; and whenever mention is herein-after made of any alteration, addition, or work in, to, or upon any building, it shall, unless the contrary appears from the context, be deemed to imply an alteration, addition, or work to which this Act applies.

An addition to a building, to be within the meaning of this section, must be an addition to a building already within the Act; and the section would not apply to a building which is exempt from its provisions under section 6, according to WIGHTMAN and CROMPTON, JJ., in *The North Kent Railway Company v. Badger*, ante, p. 10.

Before the passing of the Metropolitan Building Act, a communication had been made between two old houses, Nos. 66 and 67, in the same occupation, by openings in the party wall. After the Act came into operation it was sought to make a communication between No. 66 and the house adjoining on the other side by openings in the wall separating the two. These two houses taken together contained less than 216,000 cubic feet, but if Nos. 66 and 67 were to be considered as one building within section 28, then such building and the third house taken together contained more than 216,000 cubic feet. *Held*, that Nos. 66 and 67 were to be considered as one building for the purposes of section 28, and that the making the communication was an alteration of an old building within section 9: Secondly, that evidence was admissible to show whether the wall separating No. 66 and the house with which the communication was to be made was a party wall or a cross-wall: Thirdly, that in making such communication the rules in section 28 were obligatory: *Ashby*, app., v. *Woodthorp*, resp., 9 L. T. (N. S.) 409; 33 L. J. M. C. 68. Where an old door frame was removed and a new one substituted, the brick work round it, which was decayed, being reinstated, but the opening for the doorway not being enlarged, this was held not to be a work which affected the construction of an external wall: *Badger v. Denn*, 22 J. P. 129.

X. Whenever any old building has been taken down to an extent exceeding one half of such building, such Rebuilding old buildings.



Section 10. half to be measured in cubic feet, the rebuilding thereof  
contd. shall be deemed to be the erection of a new building ;  
 and every portion of such old building that is not in conformity with the regulations of this Act shall be forthwith taken down.

Division of old buildings separated by irregular partitions.

XI. Whenever any old buildings are separated by timber or other partitions not in conformity with this Act, then, if such partitions are removed to the extent of one half thereof, such buildings shall as respects the separation thereof be deemed to be new buildings, and be forthwith divided from each other in the manner directed by this Act.

#### WALLS.

Structure and thickness of walls.

XII. Walls shall be constructed of such substances and of such thickness and in such manner as are mentioned in the First Schedule annexed hereto.

By section 30, *post*, " notwithstanding anything herein contained, every public building, including the walls, &c., shall be constructed in such manner as may be approved by the district surveyor, or, in the event of disagreement, may be determined by the Metropolitan Board ; and, save in so far as respects the rules of construction, every public building shall throughout this Act be deemed to be included in the term building, and be subject to all the provisions of this Act in the same manner as if it were a building erected for a purpose other than a public purpose." Schedule I. is divided into " Preliminary." " Part I. Rules for the walls of dwelling-houses." " Part II. Rules for the walls of buildings of the warehouse class," and " Miscellaneous." Clause 8 in the preliminary part regulates the footings of the walls ; and section 3, the interpretation clause, defines a public building to mean a church, &c. Upon an information against a builder employed in building a church for non-compliance with a notice, under section 45, by the district surveyor to make the footings of the walls according to clause 8, a justice of the peace acting under section 46, ordered compliance. *Held*, that since by section 30 the manner of erecting public buildings is not to be regulated by the rules of construction in the Act, and inasmuch as a church is defined by section 3 to be " a public building," and clause 8 in the preliminary part of Schedule I. is a rule of con-



struction, the order was bad: *Sed Quære*, whether, if a public building is being erected in a manner not approved by the district surveyor or by the Metropolitan Board on appeal to them, there is a remedy under section 45: *Reg. v. Carruthers*, 4 B. & S. 804; 33 L. J. M. C. 107; 9 L. T. (N. S.) 825; 10 Jur. (N. S.) 767.

As to the settlement of disagreements between district surveyor and builders as to public buildings, see article 11 of the rules and regulations of the superintending architect's department of the Metropolitan Board of Works, Appendix (B) *post*.

See 41 & 42 Vict. c. 32, s. 16, *post*, which empowers the board to make bye-laws with respect to sites and foundations of houses and other requirements.

Section 12.  
*Note con.*  
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RECESSES AND OPENINGS.

XIII. The following rules shall be observed with respect to recesses and openings in walls :

Rules as to  
recesses and  
openings.

Recesses and openings may be made in external walls, provided,

1. That the backs of such recesses are not of less thickness than eight and a half inches ; and
2. That the area of such recesses and openings do not, taken together, exceed one half of the whole area of the wall in which they are made :

Recesses may be made in party walls, provided that,

1. The backs of such recesses are not of less thickness than thirteen inches ; and
2. That every recess so formed is arched over, and that the area of such recesses do not, taken altogether, exceed one half of the whole area of the wall of the storey in which they are made ; and
3. That such recesses do not come within one foot of the inner face of the external walls ;

But no opening shall be made in any party wall except in accordance with the rules of this Act :



**Section 13.** The word area, as used in this section, shall mean  
*contd.*  
 the area of the vertical face, or elevation, of the wall, pier, or recess to which it refers.

#### MISCELLANEOUS.

As to timber  
in external  
walls.

XIV. Loophole frames may be fixed within one inch and a half of the face of any external wall; but all other woodwork fixed in any external wall, except bressummers and storey posts under the same, and frames of doors and windows of shops on the ground storey of any building, shall be set back four inches at the least from the external face of such wall.

Rules as to  
bressummers.

XV. The following rules shall be observed with respect to bressummers and timbers :—

1. Every bressummer must have a bearing in the direction of its length of four inches at the least at each end, upon a sufficient pier of brick or stone, or upon a timber or iron storey post fixed on a solid foundation, in addition to its bearing upon any party wall; and the ends of such bressummer shall not be placed nearer to the centre line of the party walls than four and a half inches :
2. No bond timber or wood plate shall be built into any party wall, and the ends of any beam or joist bearing on such walls shall be at the least four and a half inches distant from the centre line of the party walls :
3. Every bressummer bearing upon any party wall must be borne by a templet or corbel of stone or iron tailed through at least half the thick-



ness of such wall, and of the full breadth of the bressummer. Section 15.  
*contd.*

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XVI. If any gutter, any part of which is formed of combustible materials, adjoins an external wall, then such wall must be carried up so as to form a parapet one foot at the least above the highest part of such gutter, and the thickness of the parapet so carried up must be at the least eight and a half inches, reckoned from the level of the under side of the gutter plate. Height and thickness of parapets to external walls.

XVII. Every party wall shall be carried up above the roof flat or gutter of the highest building adjoining thereto, to such height as will give a distance of fifteen inches measured at right angles to the slope of the roof, or fifteen inches above the highest part of any flat or gutter, as the case may be; and every party wall shall be carried up above any turret, dormer, lantern light, or other erection of combustible materials fixed upon the roof or flat of any building within four feet from such party wall, and shall extend at the least twelve inches higher and wider on each side than such erection; and every party wall shall be carried up above any part of any roof opposite thereto, and within four feet from such party wall. Height of party wall above roof.

See sect. 3, *ante*, for definition of "party wall."

XVIII. In a party wall no chase shall be made wider than fourteen inches, nor more than four and a half inches deep from the face of the wall, nor so as to leave less than eight and a half inches in thickness at the back or opposite side thereof, and no chase may be made within a distance of seven feet from any other chase on the same side of the wall. As to chases in party walls.



**Section 19.** XIX. The roofs of buildings shall be constructed as follows ; that is to say,

As to construction of roofs.

1. The flat, gutter, and roof of every building, and every turret, dormer, lantern light, skylight, or other erection placed on the flat or roof thereof, shall be externally covered with slates, tiles, metal, or other incombustible materials, except the doors, door frames, windows, and window frames of such dormers, turrets, lantern lights, skylights, or other erections :
2. The plane of the surface of the roof of a warehouse or other building used either wholly or in part for purposes of trade or manufacture shall not incline from the external or party walls upwards at a greater angle than forty-seven degrees with the horizon.

Rules as to chimneys and flues.

XX. The following rules shall be observed as to chimneys and flues :

1. Chimneys built on corbels of brick, stone, or other incombustible materials may be introduced above the level of the ceiling of the ground storey if the work so corbelled out does not project from the wall more than the thickness of the wall, but all other chimneys shall be built on solid foundations, and with footings similar to the footings of the wall against which they are built :
2. Chimneys and flues having proper doors of not less than six inches square may be constructed at any angle, but in every other chimney or flue the angles shall be constructed of an obtuseness of not less than one hundred and thirty degrees, and shall be properly rounded :



Section 20.  
contd.

3. An arch of brick or stone or a bar of wrought iron must be built over the opening of every chimney to support the breast thereof, and if the breast projects more than four and a half inches from the face of the wall, and the jamb on either side is of less width than seventeen and a half inches, the abutments must be tied in by an iron bar or bars turned up and down at the ends and built into the jambs for at least eight and a half inches on each side :
4. The inside of every flue, and the back or outside, unless forming part of the outer face of an external wall, must be rendered, pargeted, or lined with fireproof piping :
5. The jambs of every chimney must at the least be eight and a half inches wide on each side of the opening thereof :
6. The breast of every chimney, and the front, withe, partition, and back of every flue, must at the least be four inches in thickness :
7. The back of every chimney opening, from the hearth up to the height of twelve inches above the mantel, must at the least be eight and a half inches thick if in a party wall, or four and a half inches thick if not in a party wall :
8. The thickness of the upper side of every flue, when its course makes, with the horizon, an angle of less than forty-five degrees, must be at the least eight and a half inches :
9. Every chimney shaft shall be carried up in brick or stone work all round, at the least four inches thick, to a height of not less



**Section 20.**  
*contd.*  

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than three feet above the roof, flat, or gutter adjoining thereto, measured at the highest point in the line of junction with such roof, flat, or gutter :

10. The brickwork or stonework of any chimney shaft, excepting that of the furnace of any steam engine, brewery, distillery, or manufactory, shall not be built higher above the roof, flat, or gutter adjoining thereto, measured from the highest point in the line of junction with such roof, flat, or gutter, than a height equal to six times the least width of such chimney shaft at the level of such highest point in the line of junction, unless such chimney shaft is built with and bonded to another chimney shaft not in the same line with the first, or otherwise rendered secure :
11. There shall be laid, level with the floor of every storey, before the opening of every chimney, a slab of stone, slate, or other incombustible substance, at the least twelve inches longer than the width of such opening, and at the least eighteen inches wide in front of the breast thereof :
12. On every floor, except the lowest floor, such slab shall be laid wholly upon stone or iron bearers, or upon brick trimmers ; but on the lowest floor it may be bedded on the solid ground :
13. The hearth or slab of every chimney shall be bedded wholly on brick, stone, or other incombustible substance, and shall be solid for a thickness of seven inches at the least beneath the upper surface of such hearth or slab :



14. No flue shall be built against any party structure, unless a withe is properly secured thereto, at the least four inches in thickness : Section 20.  
contd.

See section 3, *ante*, as to the definition of the term "party structure."

15. No chimney breast or shaft built with or in any party wall shall be cut away unless the district surveyor certifies that it can be done without injuriously affecting the stability of any building :

16. No chimney shaft, jamb, breast, or flue shall be cut into except for the purpose of repair, or doing some one or more of the following things :

Of letting in or removing or altering flues, pipes, or funnels for the conveyance of smoke, hot air, or steam, or of letting in, removing, or altering, smoke jacks :

Of forming openings for soot doors, such openings to be fitted with a close iron door and frame :

Of making openings for the insertion of ventilating valves, subject to the following restriction, that no opening shall be made nearer than twelve inches to any timber or combustible substance :

17. No timber or woodwork shall be placed,

In any wall or chimney breast nearer than twelve inches to the inside of any flue or chimney opening ;

Under any chimney opening within eighteen inches from the upper surface of the hearth of such chimney opening ;

Within two inches from the face of the



Section 0.  
*contd.*

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brickwork or stonework about any chimney or flue, where the substance of such brickwork or stonework is less than eight and a half inches thick, unless the face of such brickwork or stonework is rendered ;

And no wooden plugs shall be driven nearer than six inches to the inside of any flue or chimney opening, nor any iron holdfast or other iron fastening nearer than two inches thereto.

The statute 3 & 4 Vict. c. 85, which regulates the construction &c., of chimneys, was repealed as to the metropolis by 7 & 8 Vict. c. 84, s. 1.

Rules as to close  
fires and pipes  
for conveying  
vapour, &c.

XXI. The following rules shall be observed as to close fires, and pipes for conveying heated vapour or water ; that is to say,

1. The floor under every oven or stove used for the purpose of trade or manufacture, and the floor around the same for a space of eighteen inches, shall be formed of materials of an incombustible and non-conducting nature :
2. No pipe for conveying smoke, heated air, steam, or hot water shall be fixed against any building on the face next to any street, alley, mews, or public way :
3. No pipe for conveying heated air or steam shall be fixed nearer than six inches to any combustible materials :
4. No pipe for conveying hot water shall be placed nearer than three inches to any combustible materials :
5. No pipe for conveying smoke or other products of combustion shall be fixed nearer than nine inches to any combustible material :



And if any person fails in complying with the rules of this section he shall for each offence incur a penalty not exceeding twenty pounds, to be recovered before a justice of the peace. Section 21.  
*contd.*

By 45 Vict. c. 14, s. 16, *post*, the restrictions in this section shall not apply in the case of pipes for conveying hot water or steam at low pressure. As to the recovery of penalties, see sections 103, 104, *post*. With regard to fire plugs, see 28 & 29 Vict. c. 90, s. 32, and 34 & 35 Vict. c. 113, s. 34, in Appendix (B) *post*.

XXII. The following rules shall be observed with respect to accesses and stairs : Rules as to  
accesses and  
stairs in certain  
buildings.

In every public building, and in every other building containing more than one hundred and twenty-five thousand cubic feet, and used as a dwelling house for separate families, the floors of the lobbies, corridors, passages, and landings, and also the flights of stairs, shall be of stone or other fire-proof material, and carried by supports of a fire-proof material.

XXIII. The following rules shall be observed with respect to habitable rooms in any building; that is to say, Rules as to  
habitable rooms.

1. Every habitable room hereafter constructed in any building, except rooms in the roof thereof and cellars and underground rooms, shall be in every part at the least seven feet in height from the floor to the ceiling :
2. Every habitable room hereafter constructed in the roof of every building shall be at the least seven feet in height from the floor to the ceiling throughout not less than one half the area of such room :
3. Cellars and underground rooms shall be constructed in manner directed by the said Act



Section 23.  
*contd.*  

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for the better local management of the metropolis :

With regard to the construction of arches and cellars under streets, see 18 & 19 Vict. c. 120, s. 101, and the City of London Sewers Act, 11 & 12 Vict. c. clxiii, s. 125; and as to underground rooms, see 18 & 19 Vict. c. 120, ss. 103, 104, and 25 & 26 Vict. c. 102, s. 62, in Appendix (A), *post*.

And whosoever knowingly suffers any room that is not constructed in conformity with this section to be inhabited shall, in addition to any other liabilities he may be subject to under this Act, incur a penalty not exceeding twenty shillings for every day during which such room is inhabited; and any room in which any person passes the night shall be deemed to be inhabited within the meaning of this Act.

As to the recovery of penalties, see section 103, *post*, and 25 & 26 Vict. c. 102, s. 62.

As to party  
arches over pub-  
lic ways.

XXIV. Every party arch, and every arch or floor over any public way, or any passage leading to premises in other occupation, shall be formed of brick, stone, or other incombustible materials: If an arch of brick or stone is used, it shall, in cases where its span does not exceed nine feet, be of the thickness of four and a half inches at the least, but when its span exceeds nine feet, be of the thickness of eight and a half inches at the least: If an arch or floor of iron or other incombustible material is used, it shall be constructed in such manner as may be approved by the district surveyor.

As to arches  
under public  
ways.

XXV. Every arch under any public way shall be formed of brick, stone, or other incombustible materials: If an arch of brick or stone is used, it shall, in cases where its span does not exceed ten feet, be of the thickness of eight and a half inches at the least; where its span



does not exceed fifteen feet, it shall be of the thickness of thirteen inches at least; and where its span exceed fifteen feet, it shall be of such thickness as may approved by the district surveyor: If an arch or other construction of iron or other incombustible material is used, it shall be constructed in such manner as may be approved by the district surveyor.

Sec 18 & 19 Vict. c. 120, s. 101, *post*, Appendix (A).

Section 25.  
*contd.*

XXVI. The following rules shall be observed as to projections : Rules as to  
projections.

With reference to this section, see 18 & 19 Vict. c. 120, ss. 119 & 120, and the rules and regulations of the superintending architect's department of the Metropolitan Board of Works, in the Appendix (B), *post*.

1. Every coping, cornice, fascia, window dressing, portico, balcony, verandah, balustrade, and architectural projection or decoration whatsoever, and also the eaves or cornices to any overhanging roof, except the cornices and dressings to the window fronts of shops, and except the eaves and cornices to detached and semi-detached dwelling houses distant at least fifteen feet from any other building, and from the ground of any adjoining owner, shall, unless the Metropolitan Board otherwise permit, be of brick, tile, stone, artificial stone, slate, cement, or other fire-proof material :
2. In streets or alleys of a less width than thirty feet, any shop front may project beyond the external wall of the building to which it belongs for five inches and no more, and any cornice of any such shop front may project thirteen inches and no more; and in any street or alley of a width greater than thirty



Section 26.  
*contd.*  


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feet, any shop front may project ten inches and no more, and the cornice may project for eighteen inches from the external walls, but no more :

By the Metropolitan Police Act of 1839, s. 60 (7), a penalty of forty shillings is imposed upon any one who sets up or continues any projection from any window, parapet, or other part of any house, shop, or other building so as to cause any annoyance or obstruction in any thoroughfare ; and upon a prosecution thereunder evidence that the prosecutors were not incommoded by the obstruction was held to be inadmissible: *Read v. Perrett*, L. R. 1 Ex. D. 349.

3. No part of the woodwork of any shop front shall be fixed nearer than four and a half inches from the line of junction of any adjoining premises, unless a pier or corbel of stone, brick, or other fire-proof material, four and a half inches wide at the least, is built or fixed next to such adjoining premises as high as such woodwork is fixed, and projects an inch at the least in front of the face thereof :
4. The roof, flat, or gutter of every building, and every balcony, verandah, shop front, or other projection must be so arranged and constructed, and so supplied with gutters and pipes, as to prevent the water therefrom from dropping upon or running over any public way :
5. Except in so far as is permitted by this section in the case of shop fronts, and with the exception of water pipes and their appurtenances, copings, cornices, facias, window dressings, and other like architectural decorations, no projection from any building shall extend beyond the general line of fronts in any street, except with the permission of the Metropolitan Board of Works hereinafter mentioned.



The magistrate having, upon the construction of the 5th rule of this section decided that a certain place, being a row of houses forming part of a line of thoroughfare, was a street, the court declined to interfere with his decision. For the court will not entertain an appeal from a decision of a magistrate, under 20 & 21 Vict. c. 43, upon a question of fact: *Newman, app., v. Baker*, resp., 8 C. B. (N.S.) 200. See also *Reg. v. Dayman*, 7 E. & B. 672.

The provisions of the Marylebone Local Improvement Act, and other local Acts with regard to bow windows or other projections beyond the general line of buildings, are repealed by the Metropolitan Buildings Act, so far as such projections are thereby allowed or regulated: *Reg. v. Pratt*, 3 Com. L. R. 826; 24 L. T. (O.S.) 235.

Although as a rule justices at petty sessions have no jurisdiction to inquire into any case involving a title to real property; yet, when by statute they are empowered to ascertain a certain fact which necessarily involves such a question, the jurisdiction remains. Under 59 Geo. 3, c. 12, s. 24, justices have power to hear and determine, notwithstanding the party in possession disputes the title of the parish officers to the premises: *Reg. v. Llanfillo Justices*, 15 L. T. (N.S.) 277.

It has been held that the Metropolitan Building Act, 1844, did not take away the power of justices to adjudicate a complaint under 57 Geo. 3, c. 29, s. 72, as to encroachments on the public highway by projections from buildings: *Reg. v. Ingham*, 17 Q. B. 884.

XXVII. The following rules shall be observed as to the separation of buildings, and limitation of their areas:

A definition of "area" will be found in sect. 3, *ante*.

Rules as to the separation of buildings, and limitation of their areas.

1. Every building shall be separated by external or party walls from any adjoining building:

External and party walls are defined in sect. 3, *ante*.

2. Separate sets of chambers or rooms tenanted by different persons shall, if contained in a building exceeding three thousand six hundred square feet in area, be deemed to be separate buildings, and be divided accordingly, so far as they adjoin vertically by party walls, and so far as they adjoin horizontally by party arches or fire-proof floors:

Section 26.

Note.



Section 27.  
*contd.*  


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3. If any building in one occupation is divided into two or more tenements, each having a separate entrance and staircase, or a separate entrance from without, every such tenement shall be deemed to be a separate building for the purposes of this Act :
4. Every warehouse, or other building used either wholly or in part for the purposes of trade or manufacture, containing more than two hundred and sixteen thousand cubic feet, shall be divided by party walls in such manner that the contents of each division thereof shall not exceed the above-mentioned number of cubic feet.

See 23 & 24 Vict, c. 52, *post*, with regard to buildings used for the manufacture of machinery and boilers for steam vessels beyond certain limits.

Rules as to  
uniting build-  
ings.

XXVIII. The following rules shall be observed as to uniting buildings :

1. No buildings shall be united unless they are wholly in the same occupation :
2. No buildings shall be united, if when so united they will, considered as one building only, be in contravention of any of the provisions of this Act :
3. No openings shall be made in any party wall dividing buildings, which, if taken together, would contain more than two hundred and sixteen thousand cubic feet, except under the following conditions :

Such opening shall not exceed in width seven feet or in height eight feet :

Such opening shall have the floor, jambs, and head formed of brick, stone, or iron, and be closed by two wrought iron doors, each one-fourth of an inch thick in the panel, at a distance from



each other of the full thickness of the wall, fitted to rebated frames, without  
woodwork of any kind ;

Section 28.  
contd.

4. Whenever any buildings which have been united cease to be in the same occupation, any openings made in the party walls dividing the same shall be stopped up with brick or stone work of the full thickness of the wall itself, and properly bonded therewith.

See note to sect. 27, *ante*.

With reference to the rules in this section, see *Ashby*, app., v. *Woodthorp*, resp., *ante*, p. 13. This section applies only to existing buildings and not to a building added to an old one, unless the addition was at some time a separate building in itself: *Scott v. Legg*, 46 L. J. M. C. 267; 36 L. T. (N.S.) 456; 25 W. R. 594; 41 J. P. 773; reversing *ib.*, L. R. 2 Ex. D. 39; 46 L. J. M. C. 117; 35 L. T. (N.S.) 487.

The operation of rule 4 is confined by sect. 9, *ante*, to cases where an addition to an old building taken by itself contains more than the statutory number of cubic feet: *ib.*

XXIX. Every building used or intended to be used as a dwelling house, unless all the rooms can be lighted and ventilated from a street or alley adjoining, shall have in the rear or on the side thereof an open space exclusively belonging thereto of the extent at least of one hundred square feet.

As to open spaces near dwelling houses.

See also 45 Vict. c. 14, s. 14, *post*, as to open spaces to new buildings intended to be used wholly or in part as dwellings.

XXX. Notwithstanding anything herein contained, every public building, including the walls, roofs, floors, galleries, and staircases, shall be constructed in such manner as may be approved by the district surveyor, or, in the event of disagreement, may be determined by the Metropolitan Board; and, save in so far as respects the rules of construction, every public building shall throughout this Act be deemed to be included in the term building, and be subject to all the provisions

Construction of public buildings.



**Section 30.** of this Act, in the same manner as if it were a building  
*contd.*  
 erected for a purpose other than a public purpose.

The proceedings to be taken in cases in which disagreements arise between the district surveyor and the builder or building owner under this section will be found in rule 11 of the superintending architect's department of the Metropolitan Board of Works, Appendix (B), *post*.

The rules do not apply to a public building such as a church, which must be constructed in such a manner as may be approved by the district surveyor, or, in the event of disagreement, as may be determined by the Metropolitan Board of Works: *Reg. v. Carruthers*, 33 L. J. M. C. 107; 9 L. T. (N.S.) 825; 12 W. R. 372. It is doubtful whether, if a public building is being erected in a manner not approved by the district surveyor, or by the Metropolitan Board on appeal to them, there is a remedy under sect. 45, *post*. See the judgment of COCKBURN, C. J., *ib.*

With regard to theatres and music halls, see 41 & 42 Viet. c. 32, ss. 11 and 12, *post*.

#### DISTRICT SURVEYORS.

Buildings to be supervised by district surveyors.

XXXI. With the exemptions hereinbefore mentioned, every building, and every work done to, in, or upon any building, shall be subject to the supervision of the district surveyor appointed to the district in which the building is situate.

Power to Metropolitan Board of Works established under 18 & 19 Viet. c. 120.

XXXII. The following things may be done by the Metropolitan Board of Works, established by the said Act for the better local management of the Metropolis, by order, at their discretion; that is to say,

1. They may alter the limits of any district, or unite any two or more districts together, and in any such case place such altered district under the supervision of any existing or of any future district surveyor, with power from time to time to alter any district so made, and do all such matters and things as are necessary for carrying into effect the power hereby given:
2. They may dismiss any existing district surveyor, with the consent of one of Her Majesty's



principal Secretaries of State ; they may suspend any such surveyor as last aforesaid ; they may dismiss or suspend any future district surveyor ; and in case of any suspension or during any vacancy they may appoint a temporary substitute :

Section 32.  
*contd.*  

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3. Whenever any vacancy occurs in the office of any existing or future district surveyor they may appoint another qualified person in his place :
4. They may pay such amount of compensation as they think fit to any district surveyor who may be deprived of his office, in pursuance of the power hereby given of altering the limits of districts :

But subject to the provisions herein contained, the several places which at the time when this Act comes into operation are constituted districts under an Act passed in the eighth year of the reign of Her present Majesty, chapter eighty-four, and intituled *An Act for regulating the construction and use of Buildings in the Metropolis and its Neighbourhood*, for the purposes of that Act, shall continue to be districts for the purposes of this Act, and the several persons who at the time when this Act comes into operation are district surveyors under the provisions of the said Act shall continue to be district surveyors under this Act.

XXXIII. The Institute of *British Architects* may from time to time cause to be examined, by such persons and in such manner as they think fit, all candidates presenting themselves for the purpose of being examined as to their competency to perform the duties of district surveyor, and shall grant certificates of competency to the candidates found deserving of the same ; and no person who has not already filled the office of district

Examination by  
Institute of  
British Archi-  
tects.



**Section 33.** surveyor, or has not already obtained a certificate of competency in pursuance of the said Act of the eighth year of the reign of Her present Majesty, chapter eighty-four, shall be qualified to be appointed to that office, unless he has received a certificate of competency from the said Institute of *British Architects*, or has been examined in such other manner as the said Metropolitan Board may direct, and been found competent in such examination.

*contd.*

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District surveyor to have and maintain an office.

XXXIV. Every district surveyor shall have and maintain an office at his own expense in such part of his district as may be approved by the Metropolitan Board of Works.

District surveyor may appoint deputy, with consent.

XXXV. If any district surveyor is prevented by illness, infirmity, or any other unavoidable circumstance from attending to the duties of his office, he may, with the consent of the Metropolitan Board of Works, appoint some other person as his deputy to perform all his duties for such time as he may be prevented from executing them.

Assistant surveyor may be appointed on emergency.

XXXVI. If at any time it appears to the Metropolitan Board of Works that, on account of the pressure of business in any district, or any other account, the surveyor of that district cannot discharge his duties promptly and efficiently, then such board may direct any other district surveyor to assist the surveyor of such district in the performance of his duties, or appoint some other person to give such assistance, and such assistant surveyor shall be entitled to receive all fees payable in respect of the services performed by him.

District surveyor not to act in case of works under his professional superintendence.

XXXVII. If any building is executed, or any work done to, in, or upon any building, by or under the superintendence of any district surveyor acting professionally or on his own private account, it shall not be



lawful for such surveyor to survey any such building for the purpose of this Act, or to act as district surveyor in respect thereof or in any matter connected therewith, but it shall be his duty to give notice thereof to the said Metropolitan Board, who shall then appoint some other district surveyor to act in respect of such matter.

Section 37.  
*contd.*

NOTICES TO DISTRICT SURVEYORS.

XXXVIII. Two days before (a) the following Acts or event, that is to say,

Notices to be given to district surveyor by builder.

Two days before any building, or any work to, in, or upon any building, is commenced, and also, if the progress of any such building or work is after the commencement thereof suspended for any period exceeding three months (b), two days before such building or work is resumed, and also if during the progress of any such building or work the builder employed thereon is changed, then two days before any new builder enters upon the continuance of such building or work,

It shall be the duty of the builder (c) engaged in building or rebuilding such building, or in executing such work, or in continuing such building or work, to give to the district surveyor notice in writing stating the situation, area, and height, and intended use of the building or buildings about to be commenced, or to, in, or upon which any work is to be done, and the number of such buildings if more than one, and also the particulars of any such proposed work, and stating also his own name and address, but any works to, in, or upon the same building that are in progress at the same time may be included in one notice.

(a) The notice would require to be given on the third day before the act or event, according to *Reg. v. Salop JJ.*, 8 A. & E. 173; 9 Dowl. P. C. 528, and see section 41, *post*.



## Section 38.

Note con.

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(b) *i. e.*, calendar months, see 13 & 14 Viet. c. 21. s. 4.

(c) "Builder" is defined by section 3, *ante*.

Section 44, *post*, provides that in cases of emergency buildings may be commenced without prior notice, subject to notice being given within 24 hours after such commencement.

See sect. 105, *post*, as to limitation of time for proceedings by district surveyors where due notice has not been given; 18 & 19 Viet. c. 120, s. 76, and 25 & 26 Viet. c. 102, s. 58, as to notices before beginning to lay or dig foundations of new buildings; and 11 & 12 Viet. c. clxiii., s. 63, in case of buildings within the city of London; also 41 & 42 Viet. c. 32, s. 16, *post*, as to deposit of plans, &c., but which does not apply to the City of London.

District surveyor to cause rules of this Act to be observed

XXXIX. Every district surveyor shall, upon the receipt of any such notice as aforesaid, and also upon any work affected by the rules of this Act, but in respect of which no notice has been given, being observed by or made known to him, and also from time to time during the progress of any works affected by the rules and directions of this Act, as often as may be necessary for securing the due observance of such rules, survey any building or work hereby placed under their supervision, and cause all the rules of this Act to be duly observed.

Notice to be evidence of intended works,

XL. Every notice given in pursuance of this Act shall be deemed, in any question relative to any building or work, to be *prima facie* evidence as against such builder of the nature of the building or work proposed to be built or done.

Penalty on builders neglecting to give notice.

XLI. If any builder neglects to give notice in any of the cases aforesaid, or executes any works of which he is hereby required to give notice before giving the same, or having given due notice of any works executes the same before the expiration of two days from the time of giving such notice, such builder shall for every such offence incur a penalty not exceeding twenty pounds, to be recovered before a justice of the peace.

See sect. 103, *post*, as to the recovery of penalties.



In cases of emergency works may be commenced without notice, subject to section 44, *post*. Section 41.  
*Note con.*

In a case where buildings had been erected under the superintendence of the surveyor, but the notice required by the Metropolitan Building Act, 1774, s. 63, had not been given, GURNEX, B., said:—"If no notice was given the district surveyor has waived that:" *Wells v. Ody*, 7 C. & P. 24.

XLII. At all reasonable times during the progress of any building or work affected by this Act it shall be lawful for the district surveyor to enter and inspect such building or work; and if any person refuses to admit such surveyor to inspect such building or work, or refuses or neglects to afford such surveyor all reasonable assistance in such inspection, in every such case the offender shall incur for each offence a penalty not exceeding twenty pounds, to be recovered before a justice of the peace.

District surveyor may enter and inspect buildings affected by this Act.  
  
Penalty for refusal.

Penalties are recoverable under section 103, *post*.

XLIII. The district surveyor may at all reasonable times enter any premises, with the exception of buildings hereinbefore exempted by name, for the purpose of ascertaining whether any buildings erected in such premises are in such a situation or possess such characteristics as are hereinbefore required in order to exempt them from the operation of this Act, and he may do all such things as are necessary for the above purpose; and if any person refuses to admit such surveyor to enter such premises or to inspect any such building, or neglects to afford to him all reasonable assistance in such inspection, in every such case the offender shall incur for each offence a penalty not exceeding twenty pounds to be recovered before a justice of the peace.

District surveyor may enter buildings to ascertain as to exempted buildings.

The exemptions will be found in section 6, *ante*. Section 103, *post*, provides for the recovery of penalties.



**Section 44.** XLIV. If by reason of any emergency any act or work is required to be done immediately, or before notice can be given as aforesaid, then it shall be lawful to do the act or work so required to be done, upon condition that before the expiration of twenty-four hours after such act or work has been begun notice thereof is given to the district surveyor.

In case of emergency, works may be commenced without notice

PROCEEDINGS BY DISTRICT SURVEYORS IN CASE OF  
IRREGULARITY.

Notice by district surveyor in case of irregularity

XLV. In the following cases, that is to say,  
If in erecting any building or in doing any work to, in, or upon any building, anything is done contrary to any of the rules of this Act, or anything required by this Act is omitted to be done ; or

In cases where due notice has not been given,—

If the district surveyor, on surveying or inspecting any building or work, finds that the same is so far advanced that he cannot ascertain whether anything has been done contrary to the rules of this Act, or whether anything required by the rules of this Act has been omitted to be done ;

In every such case the district surveyor shall give to the builder engaged in erecting such building, or in doing such work, notice in writing requiring such builder, within forty-eight hours from the date of such notice, to cause anything done contrary to the rules of this Act to be amended, or to do anything required to be done by this Act, but which has been omitted to be done, or to cause so much of any building or work as prevents such district surveyor from ascertaining whether anything has been done or omitted to be done as



aforesaid to be to a sufficient extent cut into, laid open, or pulled down. Section 45.  
*contd.*

Sections 45, 46, and 47, of 18 & 19 Vict. c. 122, apply only to buildings in course of erection; therefore, where in 1876, T. applied to the Metropolitan Board of Works for leave to erect an iron building, called a skating riuk, at the back of his premises, pursuant to sect. 56 of the Act, and the board granted leave on T. giving an undertaking to remove the building within two years, and the time having elapsed, the board called upon T. to remove the building, but he failed to do so, it was held that there was no power given to a magistrate to enforce its removal: *Parsons v. Timewell*, 44 J. P. 296.

By sect. 12 of 45 Vict. c. 14, *post*, the Metropolitan Board of Works may now impose conditions requiring the removal of iron or other buildings of a temporary character within a certain period.

XLVI. If the builder to whom such notice is given makes default in complying with the requisition thereof within such period of forty-eight hours, the district surveyor may cause complaint of such non-compliance to be made before a justice of the peace, and such justice shall thereupon issue a summons requiring the builder so in default to appear before him; and if upon his appearance, or in his absence, upon due proof the service of such summons, it appears to such justice that the requisitions made by such notice or any of them are authorized by this Act, he shall make an order on such builder commanding him to comply with the requisitions of such notice or any of such requisitions that may in his opinion be authorized by this Act, within a time to be named in such order.

On non-compliance with notice, justice to summon builder, and make order to comply with requisition.

XLVII. If such order is not complied with, the builder on whom it is made shall incur a penalty not exceeding twenty pounds a day, to be recovered before a justice of the peace, during every day of the continuance of such non-compliance, and in addition thereto the district surveyor may, if he thinks fit, proceed with

Penalty on non-compliance with order of justice.



**Section 47.** a sufficient number of workmen to enter upon the premises, and do all such things as may be necessary for enforcing the requisitions of such notice, and for bringing any building or work into conformity with the rules of this Act, and all expenses incurred by him in so doing and in any such proceedings as aforesaid, may be recovered from the builder on whom such order was made, in a summary manner, before a justice of the peace, or may be recovered from the owner of the premises in the same manner in which expenses incurred by the *commissioners* hereinafter named in respect of dangerous buildings are hereinafter directed to be recovered from any owner; and if the owner cannot be found, or if on demand he refuses or neglects to pay the aforesaid expenses, the district surveyor shall have the same power of taking and selling the building in respect of which the order is made, and of applying the proceeds, as is thereby given to the *commissioners*.

This and the two preceding sections apply only to buildings in course of erection; see note to section 45, *ante*.

The penalty is recoverable under section 103, *post*. As to the recovery of the expenses, see sects. 73, 74, and 97, *post*.

Penalty on workmen, &c., doing anything contrary to rules of Act.

**XLVIII.** If any workman, labourer, servant, or other person employed in or about any building, wilfully, and without the privity or consent of the person causing such work to be done, does anything in or about such building contrary to the rules of this Act, he shall for each such offence incur a penalty not exceeding fifty shillings.

See sect. 103, *post*, as to recovery of penalties.

#### FEES OF DISTRICT SURVEYORS.

Payments to district surveyors in respect of matters in

**XLIX.** There shall be paid to the district surveyors (*a*), in respect of the several matters specified in the first part of the second schedule hereto, the fees



therein specified, or such other fees, not exceeding the amounts therein specified, as may from time to time be directed by the Metropolitan Board of Works; but one fee only shall be chargeable with respect to any such works done in, to, or upon any building as are in pursuance of the provisions hereinbefore contained included in one notice; and if in consequence of any reduction being made by the said Metropolitan Board in the amount of the said scheduled fees the income of any existing district surveyor is diminished, the Metropolitan Board shall grant to him compensation in respect of such diminution.

Section 49.

*contd.*first part  
of second  
schedule.

(a) This includes any deputy or assistant surveyor. See sect. 3, *ante*. District surveyors' salaries are provided for by section 65, *post*.

Under Schedule II., Part I., *post*, the district surveyor is entitled to a fee of 10s. "for inspecting the arches or stone floors over or under public ways;" and where a builder was employed to construct a series of arches for cellars under a public street, surrounding a vacant piece of land which was let for building, the district surveyor was held entitled to a fee of 10s. in respect of each distinct building to which any given number of arches was intended to be appropriated, which was a matter of fact to be ascertained and determined by the magistrate before whom the fee was sought to be recovered: *Power v. Wigmore*, L. R. 7 C. P. 386; 27 L. T. (N.S.) 148.

L. If any special service is required to be performed by the district surveyor under the first part of this Act, for which no fee is specified in the said schedule, the Metropolitan Board of Works may order such fee to be paid for such service as they think fit, and the district surveyor shall have the same remedy for recovering such special fee as if the same were expressly named in the said schedule.

Metropolitan  
Board may  
appoint special  
fees for services  
not provided  
for.

LI. At the expiration of the following periods, that is to say,  
of one month (a) after the roof of any building

Periods when  
surveyors  
entitled to  
fees.



Section 51.  
*contd.*  


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surveyed by any district surveyor under this Act has been covered in,  
 of fourteen days after the completion of any such work as is by this Act placed under the supervision of the district surveyor,  
 of fourteen days after any special service in respect of any building has been performed,  
 the district surveyor shall be entitled to receive the amount of fees due to him from the builder employed in erecting such building, or in doing such work, or in doing any matter in respect of which any special service has been performed by the surveyor, or from the owner or occupier of the building so erected or in respect of which such work has been done or service performed; and if any such builder, owner, or occupier refuses to pay the same, such fees may be recovered in a summary manner before a justice of the peace, upon its being shown to the satisfaction of such justice that a proper bill specifying the amount of such fees was delivered to such builder, owner, or occupier, or sent to him in a registered letter addressed to his last known residence.

(a) *i. e.*, calendar month. See 13 & 14 Vict. c. 21, s. 4.

See the definition of "owner" in sect. 3, *ante*, p. 3, which in this section means the owner for the time being when the fees became due: *Tubb v. Good*, 39 L. J. M. C. 135; L. R. 5 Q. B. 413; 22 L. T. (N.S.) 885. An owner of land in fee simple who lets it on a building lease at a peppercorn rent is not liable, as owner, to the surveyor for fees in respect of buildings erected on such land, a peppercorn rent not being within the meaning of the words "of the whole or of any part of the rents or profits of any land or tenement" in the interpretation clause, sect. 3. See *Evelyn*, app., *Whickcord*, resp., E. B. & E. 126; 27 L. J. M. C. 211; 4 Jur. (N.S.) 808; 1 E. B. & E. 126; 31 L. T. (O.S.) 96; 6 W. R. 468; 22 J. P. 658, *ante*, p. 3.

An owner in fee of building land, entered into an agreement with L. to grant leases for 99 years, so soon as L. should have erected



houses thereon at a peppercorn rent till June, 1870, and afterwards at 28*l.* a year. L. built houses, which were roofed in about September, 1870, and first year's ground rent became due 29th September. District surveyor sued owner for his fees, L. having become insolvent. *Held*, that the owner was not liable, not being the "owner" within sects. 3, 51, inasmuch as L. had power to let the houses and receive the profits, and was therefore "owner." LUSH, J.—"In what sense is the word 'owner' used? It is used in the popular sense, and means the person who employed the builder to build the house for him." "The person is called 'owner' who has the immediate right of letting them, and who would, if there was an occupier, be entitled to have the rent from him:" *Caudwell v. Hanson*, L. R. 7 Q. B. 55; 41 L. J. M. C. 8; 25 L. T. (N.S.) 595; 20 W. R. 202.

As to the powers of the Metropolitan Board of Works in the case of unauthorized fees, see sect. 54, *post*.

The decision of the justice under this section is the subject of appeal under 20 & 21 Vict. c. 43, notwithstanding sect. 106, *post*. *Power v. Wigmore*, L. R. 7 C. P. 386; 27 L. T. (N.S.) 148.

## Section 51.

*Note con.*

## RETURNS BY DISTRICT SURVEYORS.

LII. Every district surveyor shall, within seven days after the first day of every month, make a return to the Metropolitan Board of Works, in such manner as they may appoint, of all notices and complaints received by him relative to the business of his district, and the results thereof, and of all matters brought by him before any justice of the peace, and of all the several works supervised and special services performed by him in the exercise of his office within the previous month, and of all fees charged or received in respect thereof, and specify in such return the description and locality of every building built, rebuilt, enlarged, or altered, or on which any work has been done under his supervision, with the particular nature of every work in respect of which any fee has been charged or received.

District surveyor to make monthly returns to Metropolitan Board of Works.



**Section 53.**

Return duly signed to be a certificate that works are agreeable to Act.

LIII. Every such return shall be signed by such surveyor, and shall be deemed to be a certificate that all the works enumerated therein as completed have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him.

Superintending architect to audit accounts of fees charged by district surveyors, and to report in case of excess.

LIV. The officer hereinafter mentioned as the superintending architect of metropolitan buildings, or such other officer as the Metropolitan Board of Works appoint, shall from time to time examine the said monthly returns made by the district surveyors; and in case any fees therein specified appear to such officer to be unauthorized by this Act, or to exceed in amount the rates hereby made payable, or in case any such account appears to be in any respect fraudulent or untrue, he shall make his report in writing to that effect to the Metropolitan Board of Works, who shall thereupon take such steps in the matter as they deem expedient.

#### POWERS OF METROPOLITAN BOARD OF WORKS.

Power for Metropolitan Board of Works to modify rules.

LV. The Metropolitan Board of Works may, by order, made with the consent of Her Majesty in council, alter, in such manner as they may think fit, the rules for the regulation of the thickness of walls contained in the first schedule hereto.

Buildings to which rules of Act are inapplicable.

LVI. Whenever any builder is desirous of erecting any iron building, or any other building to which the rules of this Act are inapplicable, he shall make an application to the Metropolitan Board of Works, stating such desire, and setting out a plan of the proposed building, with such particulars as to the construction



thercof as may be required by the said board ; and the latter, if satisfied with such plan and particulars, shall signify their approval of the same, and thereupon such building may be constructed according to such plan and particulars ; but it shall not be lawful for such board to authorize any warehouse or other building used either wholly or in part for the purposes of trade or manufacture to be erected of greater dimensions than two hundred and sixteen thousand cubic feet, unless it is divided by party walls in manner hereinbefore required.

Section 56.

contd.

This section has been amended with regard to buildings to be used wholly for the manufacture of the machinery and boilers of steam vessels, by 23 & 24 Vict. c. 52, *post*. With regard to this section, see the rules and regulations of the superintending architect's department of the Metropolitan Board of Works, articles 3 and 4, *post*, Appendix (B.), who have power to make, &c., bye-laws as to the deposit of plans, &c., under 41 & 42 Vict. c. 32, s. 16 ; that section, however, does not apply to the City of London.

With regard to the proceedings to be taken in cases of irregularity, see sections 45 to 48, *ante*. It has been held, however, that those sections only apply to buildings in course of erection, and where the board have sanctioned the erection of a building, proceedings cannot be taken thereunder to enforce its removal, notwithstanding that such sanction is given conditionally upon the removal of the building within a certain time: *Parsons v. Timewell*, 41 J. P. 296. But by sect. 12 of 45 Vict. c. 14, *post*, the Metropolitan Board of Works may now impose conditions requiring the removal of iron or other buildings of a temporary character within a certain period.

LVII. The said Metropolitan Board may, for the purpose of regulating the proceedings of such applicants as aforesaid, from time to time issue such general rules as to the time and manner of making such applications, as to the plans to be presented, as to the expenses to be incurred, and as to any other matter or thing connected therewith, as they may think fit.

Power of  
Metropolitan  
Board to make  
general rules.



**Section 58.** LVIII. The approval by the Metropolitan Board of Works of any plans or particulars, in pursuance of the foregoing provisions, shall be signified by writing under the hand of the superintending architect of metropolitan buildings, and countersigned by the chairman of such board, or by any other officer appointed by the board.

Approval  
of board, how  
signified.

Board to issue  
forms of  
notices.

LIX. The said Metropolitan Board may from time to time prepare or sanction forms of the various notices required by this Act, and may from time to time make such alterations therein as they deem requisite; and they shall cause every such form to be sealed with the seal of the board, or marked with some other distinguishing mark; and any notice made in a form sanctioned by the board shall in all proceedings be held sufficient in law.

Forms of notices sanctioned by the board will be found in Appendix (B.), *post*.

Expenses of  
orders to be  
borne by  
builders.

LX. All expenses incurred in and about the obtaining such approval of the Metropolitan Board of Works as aforesaid shall be paid by the builder to the said superintending architect, or to such other person as the said board may appoint, and in default of payment may be recovered in a summary manner.

With regard to "office fees," see articles 4 and 5 of the rules of the superintending architect's department of the Metropolitan Board of Works, in the Appendix (B.), *post*.

District sur-  
veyor to see  
plans carried  
into execution

LXI. A copy of any plans and particulars, approved by the Metropolitan Board of Works, shall be furnished to the surveyor within whose district the building to which such plans and particulars relate is situate, and thereupon it shall be the duty of such district surveyor to ascertain that the same is built in accordance with the said plans and particulars.

See note to section 60.



LXII. The Metropolitan Board of Works may, for the purpose of aiding in the execution of this Act, appoint some fit person, to be called the "superintending architect of metropolitan buildings," together with such number of clerks as they think fit; such architect and clerks shall be removable by the said Metropolitan Board, and shall perform such duties as the said board direct; but it shall not be lawful for any superintending architect to practise as an architect, or to follow any other occupation.

Section 62.  
Power to  
Metropolitan  
Board to  
appoint super-  
intending  
architect and  
clerks.

LXIII. If the superintending architect is prevented by illness, infirmity, or any other unavoidable circumstance from attending to the duties of his office, he may, with the consent of the Metropolitan Board of Works, appoint some other person as his deputy to perform all his duties for such time as he may be temporarily prevented from executing them.

Superintending  
architect may  
appoint deputy,  
with consent.

LXIV. There shall be paid to such superintending architect and clerks such salaries as the said Metropolitan Board may from time to time direct.

Salaries to  
architect and  
clerks.

#### EXPENSES.

LXV. The said Metropolitan Board may at any time hereafter, by order, cause such fixed salary as they may determine to be paid to any district surveyor by way of remuneration instead of fees, provided the amount of such remuneration be not less than the amount of the average of the fees for the last three years; and thereupon such surveyor shall pay all fees received by him under this Act into the hands of the said superintending architect.

Power of  
Metropolitan  
Board to pay  
salaries.



**Section 66.** LXVI. All moneys received by the superintending architect in pursuance of this Act shall be accounted for and paid by him into the hands of the treasurer of the said Metropolitan Board, at such time and in such manner as the said board may direct.

Money received by superintending architect to be paid to the Metropolitan Board.

LXVII. The said Metropolitan Board may at any time hereafter provide, either wholly or partially, for the payment of salaries to the district surveyors, or to any of them, out of the rates leviable by such board, in pursuance of the said Act for the better local Management of the Metropolis, and may thereupon abolish or reduce any fees hereby made payable to the district surveyors.

See sect. 171 and the following sections of 18 & 19 Vict. c. 120 and sect. 5 of 25 & 26 Vict. c. 102.

Expenses, how borne

LXVIII. All expenses of carrying into execution this Act, not hereby otherwise provided for, shall be deemed to be expenses incurred by the said Metropolitan Board in the execution of the said Act for the better Local Management of the Metropolis, and shall be raised and paid accordingly.

See note to sect. 67, *ante*.

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## PART II.

## DANGEROUS STRUCTURES.

PART II.  
Dangerous  
structures.  

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Dilapidated and neglected buildings are dealt with under 45 Vict. c. 14, s. 17, *post*.

LXIX. Whenever it is made known to the *commissioners* hereinafter named that any structure (including in such expression any building, wall, or other structure, and anything affixed to or projecting from any building, wall, or other structure), is in a dangerous state, such *commissioners* shall require a survey of such structure to be made by the district surveyor, or by some other competent surveyor, and it shall also be the duty of the district surveyor to make known to the said *commissioners* any information he may receive with respect to any structure being in such state as aforesaid.

## Section 69.

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Survey to be  
made of dan-  
gerous  
structures.  
8 Vict. c. 84  
s. 40.

The statute in the marginal note is repealed, see sect. 109, *post*.

LXX. In cases where any such structure is situate within the City of London or the liberties thereof, hereinafter included under the expression "the city of London," the expression "the commissioners" shall mean "the Commissioners of Sewers of the city of London;" (a) [*but when such structure is situate elsewhere it shall mean "the Commissioners of Police of the Metropolis," or such one of them as may be authorized by one of Her Majesty's principal Secretaries of State to act in the matter of this Act.*]

Definition of  
"commis-  
sioners."

(a) The commissioners appointed under 11 & 12 Vict. c. clxiii.

The words within brackets, and printed in italics, are repealed by 32 & 33 Vict. c. 82, s. 6, *post*, sect. 4, of which substitutes the Metropolitan Board of Works for the Commissioners of Police.



**Section 71.** LXXI. Upon the completion of his survey the surveyor employed shall certify to the said *commissioners* his opinion as to the state of any such structure as aforesaid.

Surveyor on completion of survey to give certificate.

Proceedings to be taken in respect of certificate.

LXXII. If such certificate is to the effect that such structure is not in a dangerous state, no further proceedings shall be had in respect thereof, but if it is to the effect that the same is in a dangerous state, the *commissioners* shall cause the same to be shored up, or otherwise secured, and a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner or occupier of such structure requiring him forthwith to take down, secure, or repair the same, as the case requires.

Previous to the Metropolitan Building Act, 1844, a custom by the Mayor and Common Council of the City of London to put up hoards for the safety of passengers was held good: *Bradbee v. Christ's Hospital*, 4 M. & G. 714; 2 Dow. (N.S.) 164; 5 Scott's N. R. 79.

On non-compliance with notice justice to summon owner, &c., and make order to comply with requisition.

LXXIII. If the owner or occupier to whom notice is given as last aforesaid fails to comply, as speedily as the nature of the case permits, with the requisition of such notice, the said *commissioners* may make complaint thereof before a justice of the peace; and it shall be lawful for such justice to order the owner, or on his default the occupier, of any such structure to take down, repair, or otherwise secure, to the satisfaction of the surveyor who made such survey as aforesaid, or of such other surveyor as the said *commissioners* may appoint, such structure or such part thereof as appears to him be in a dangerous state, within a time to be fixed by such justice; and in case the same is not taken down, repaired, or otherwise secured within the time



so limited, the said *commissioners* may with all convenient speed cause all or so much of such structure as is in a dangerous condition to be taken down, repaired, or otherwise secured, in such manner as may be requisite; and all expenses incurred by the said *commissioners* in respect of any dangerous structure by virtue of the second part of this Act shall be paid by the owner of such structure, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

## Section 73.

*contd.*

*Recovery of expenses*—No time for making complaint in respect of expenses incurred under this section is limited by this Act, but by 32 & 33 Vict. c. 82, s. 5, *post*, expenses incurred by the board in carrying into execution Part II. of this Act are to be deemed part of their expenses in carrying into execution this Act, section 68 of which enacts that such expenses are to be deemed to be expenses incurred under the Metropolis Local Management Act, 1855, and raised and paid accordingly; and section 106 of the last Act limits the time for bringing actions thereunder to six months next after the accrual of the cause of action or ground of claim or demand. Sect. 97 (6) *post*, enacts that these expenses may be recovered in a summary manner; and sect. 103 enacts that expenses directed to be recovered in a summary manner may be recovered in manner directed by stat. 11 & 12 Vict. c. 43. Sect. 11 of stat. 11 & 12 Vict. c. 43, enacts, that where no time is limited for making a complaint by the particular Act under which the matter of complaint arises, the complaint shall be made "within six calendar months from the time when the matter of such complaint arose." Previous to the Act of 1869 the commissioners having incurred expense under sect. 73, demanded payment of the owner of the structure, who refused to pay. *Held*, that the six months were to be reckoned from the demand and refusal, not from the incurring of the expense: *Labalmondiere*, app., v. *Addison*, resp., 1 E. & E. 41; 28 L. J. M. C. 25; 5 Jur. (N.S.) 431.

An order of a justice, under sect. 73, after reciting that a complaint had been made by the assistant commissioner that he had caused notice in writing to be given to F., the owner of a structure, requiring him to repair it, and that he had failed so to do, ordered F. to repair the same. On a summons before a second justice to recover from F. the expenses incurred by the commissioner in repairing the said structure, on F. having still failed to repair, the justice dismissed the sum-



**Section 73.***Note con.*

mons, on the ground that the order, which was put in evidence, was defective for (among other things) not containing any averment that F. had been summoned to answer the complaint, or any adjudication that the complaint was true: *Held*, that such second justice had jurisdiction, upon hearing of the summons, to enter into the question of the sufficiency of the order; and that the order was insufficient and bad upon the face of it, on the above grounds; for when proceedings are taken before a justice to recover the expenses incurred by the ommissioners in consequence of the disobedience of such order by the owner of the structure, it is lawful for such last-mentioned justice to consider the validity of the said order, and to hold that it is bad, for the reasons above mentioned: *Labalmondie v. Frost*, 1 E. & E. 527; 28 L. J. M. C. 155; 7 W. R. 205; 5 Jur. (N. S.) 789; 23 J. P. 598.

Appellants, owners in fee of premises, part of which was used as a chapel, demised them for twenty-one years to N., who entered into possession. The chapel was shut up and unoccupied except when used on Sundays for divine service. Appellants having failed to comply with a notice to them, by the commissioners, to repair and secure the chapel, and also with an order of a justice, made upon complaint by the commissioners, requiring appellants to comply with the requisition of such notice, the commissioners executed the repairs; and on their complaint, a justice made an order on the appellants for payment of the expenses so incurred by the commissioners. *Held*, that N. was the owner of the premises within the meaning of the statute, and, as such, was primarily liable for the expenses in question; and that the order for payment was bad for being directed to the appellants, instead of to N. *Mourilyan, app., v. Labalmondie*, resp., 1 E. & E. 533; 30 L. J. M. C. 95; 7 Jur. (N. S.) 627; 25 J. P. 340; S. C. *Reg. v. Mourilyan*, 3 L. T. (N. S.) 668.

Under section 72, *ante*, notice was served upon the owner of houses, in respect of which notice had already been served under the Artizan's Dwellings Act, 1875, in pursuance of which an arbitrator had been appointed, whose final award however was not made until after the service of the notice under this Act. Proceedings having been taken by the Metropolitan Board of Works to recover expenses incurred through the failure of the owner to comply with the notice under section 72, it was held upon appeal under sections 106 and 107, *post*, that the ownership in the property was not transferred, under the Artizan's Dwellings Act, until the final award of the arbitrator, and the expenses were therefore recoverable: *Barrett v. Metropolitan Board of Works*, 46 L. T. (N. S.) 384; 46 J. P. 469.

By the repealed statute, 7 & 8 Viet. c. 84, s. 2, the word "owner" shall apply generally to any person in possession



or receipt either of the whole or of part of the rents or profits of any ground or tenement, or in the occupation of such ground or tenement, other than as a tenant from year to year, or for any less term, or a tenant at will.

## Section 73.

Note con.

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A house occupied by a tenant under a lease for twenty-one years was during the term accidentally burnt, and, being ruinous, was pulled down under the provisions of the Metropolitan Buildings Act. By the lease the tenant was exempted from paying rent for the time that the house was untenable by reason of an accidental fire. *Held*, that the expenses incurred could not be recovered from the landlord, a tenant for life of the reversion, under section 42 of the above-mentioned Act, which throws the burden upon "the owner of every such building, being the person entitled to the immediate possession thereof:" *Ex parte Overseers of Saffron Hill*, 24 L. J. M. C. 56; 24 L. T. (O.S.) 118; 3 W. R. 64; 18 Jur. 1104.

The incumbent of a district church in the metropolis is not the owner of the church within the meaning of this and section 3, *ante*, so as to be personally liable for expenses incurred by the board in respect of such church: *Reg v. Lee*, L. R. 4 Q. B. D. 75; 48 L. J. M. C. 22; 39 L. T. (N.S.) 605; 43 J. P. 302; see also the cases in the note to section 3.

*Dangerous structure.*—A structure within the metropolis having been surveyed and reported dangerous, notice was served on the owner, under sects. 69-73, and not having repaired it, he was summoned by the Metropolitan Board of Works before a magistrate, ultimately withdrawn, the owner having in the meantime duly repaired the structure. The board sought to charge against the owner, under section 73, as "expenses incurred in respect of a dangerous structure," in addition to the surveyor's fees allowed by sects. 77-79, the following items, which by resolution of the board, had been resolved should be charged against owners in respect of dangerous structures, viz., 3s. 6d. for preparation of notices and forms; 2s. 6d. for clerk's time in service of notices; and 2s. 6d. for general office expenses. *Held*, that the board were not entitled to charge the last item, but were entitled to charge the first two: *Metropolitan Board of Works v. Flight*, L. R. 9 Q. B. 58; 43 L. J. M. C. 46; 29 L. T. (N.S.) 608.

The appellant pulled down his house, with the exception of two party walls which separated it from the next house on each side. The respondents, the Metropolitan Board of Works, served upon the appellant and upon his two adjoining owners an order from a magistrate to take down or otherwise secure these party walls, and upon default the board by their contractor did the necessary work, and paid the contract price. The board then summoned the appellant for the amount, and the magistrate made the required order for payment under this section.



## Section 73.

*Note con.*

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Upon a case stated it was held that because these dangerous structures were party walls the magistrate was not obliged to have the other owners summoned before him, nor to order them to contribute; and that he rightly made the order for the whole amount paid by the board, although it was admitted that it somewhat exceeded the market price of the labour and materials, the contract having been entered into when their value was greater: *Debenham v. Metropolitan Board of Works*, L. R. 6 Q. B. D. 112; 50 L. J. M. C. 29; 43 L. T. (N.S.) 596; 29 W. R. 353; 45 J. P. 190.

Under a local act a company had power to pull down certain buildings, making compensation therefore to the owners of premises damaged, and they were exempted from the provisions of the Building Act, 1774: It was *held*, however, that the clause excluding the operation of the Building Act did not apply to party walls between the company's houses and those of other persons; and that the pulling down of such a party wall, condemned as dangerous, was a proceeding under the Building Act, and not under the local act, notwithstanding that the parties had waived the notice under the Building Act, as to time of survey: *Reg. v. Hungerford Market Company*, 1 A. & E. 668; 2 Nev. & M. 340.

Where the owner of a dangerous structure is not known, or cannot be found, provision is made for the service of notices and summons by 45 Vict. c. 14, s. 19, *post*.

If owner cannot be found, commissioners may sell structure, giving the surplus to owner, &c.

LXXIV. If such owner cannot be found, or if, on demand, he refuses or neglects to pay the aforesaid expenses, the said *commissioners*, after giving three months' (a) notice of their intention to do so, by posting a printed or written notice in a conspicuous place on the structure in respect of which or of part of which they have incurred expense, or on the land whereon it stands, may sell such structure, and they shall, after deducting from the proceeds of such sale the amount of all expenses incurred by them, restore the surplus (if any) to the owner (b).

(a) *i.e.*, calendar months, see 13 & 14 Vict. c. 21, s. 4.

(b) See 41 & 42 Vict. c. 32, s. 19, *post*, giving the purchaser a right of entry for the purpose of taking down the building and removing the materials, and 45 Vict. c. 14, s. 18, making further provision for securing payment of expenses in respect of dangerous or neglected structures.



Expenses incurred under this part of the Act are a charge upon property in respect of which they are incurred: *In re Hammond Davies' Estate, In re The Crystal Palace and West End Railway Company*, 4 Jur. (N.S.) 1029; 3 De G. & J. 144; 6 W. R. 844.

Section 74.

*Note con.*  
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LXXV. All payments hereby directed to be made by or to the *commissioners* shall in the cases of payments in respect of any structure situate within the city of London be made by or to the Chamberlain of the city out of or to the consolidated rate made by the Commissioners of Sewers [*and in the cases of payments in respect of any structure situate elsewhere within the limits of this Act be made by or to the Receiver of Metropolitan Police*], in the same manner in which payments are made by or to such Chamberlain and *Receiver* respectively in the ordinary course of their business; but no *commissioner* or other officer shall be liable in respect of any loss that may be sustained by any person in consequence of the exercise by the said *commissioners* of the powers hereby given them, unless such loss happens through the wilful default of such *commissioner* or other officer.

Payments by or to the commissioners, how made.

The words in this section printed in italics and with brackets are repealed by 32 & 33 Vict. c. 82, s. 6; and see also sect. 5 of that Act. Further, with regard to this section, see 41 & 42 Vict. c. 32, s. 19, *post*.

LXXVI. In cases where any surplus is hereby made payable to any owner, if no demand for the same is made by any person entitled thereto within one year, then the same shall be paid into the Bank of England in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account there to the credit of the owner (describing him so far as the commissioners can) subject to the con-

Surplus how to be applied if no demand made for it.



Section 76. trol of the court, and to be paid out to the owner on  
*contd.* his applying by petition, and proving his title thereto.

The payment will now be made in the name of the Paymaster-general, 35 & 36 Vict. c. 44, s. 4.

Fees to district  
 surveyor.

LXXVII. There shall be paid to the district surveyor, or to such other surveyor as aforesaid, in respect of his services under the second part of this Act, such fees, not exceeding the amounts specified in the second part of the second schedule hereto, as may from time to time be directed by the said Metropolitan Board.

Metropolitan  
 Board may  
 appoint  
 special fees  
 for services not  
 provided for.

LXXVIII. If any special service is required to be performed by the district surveyor, or by such other surveyor as aforesaid, under the second part of this Act, for which no fee is specified in the said schedule, the said Metropolitan Board may order such fee to be paid for such service as they think fit.

Fees to be  
 deemed part of  
 expenses.

LXXIX. All fees paid to the district surveyor, or to such other surveyor as aforesaid, by virtue of the second part of this Act, shall be deemed to be expenses incurred by the said *commissioners* in the matter of the dangerous structure in respect of which such fees are paid, and shall be recoverable by them from the owner accordingly.

For the provisions with regard to the recovery of expenses, see sections 73 and 74, *ante*, and the notes thereto.

Justice of  
 peace may  
 cause inmates  
 to be removed  
 from danger-  
 ous struc-  
 tures.

LXXX. In cases where a structure has been certified by a district surveyor, or such other surveyor as aforesaid, to be dangerous to its inmates, a justice of the peace may, if satisfied of the correctness of such certificate, upon the application of the said *commissioners*, by order under his hand direct any inmates of such



structure to be removed therefrom by a constable or other peace officer, and if they have no other abode he may require them to be received into the workhouse established for the reception of the poor of the place in which such structure is situate.

Section 80.

contd.

LXXXI. *Subject to the approval of one of Her Majesty's principal Secretaries of State, the said commissioners may appoint such persons at such salaries, and make such regulations, as they think fit for carrying into execution the second part of this Act; [and all expenses incurred by them not hereby otherwise provided for shall, in the case of expenses incurred by the said Commissioners of Police, be deemed to be expenses incurred by them in respect of the police force of which they are commissioners, and be payable accordingly;]* and all expenses incurred by the said Commissioners of Sewers shall be paid out of the said consolidated rate.

Powers of  
commissioners  
to appoint  
officers.

The words in this section printed in italics, and within brackets, are repealed by 32 & 33 Vict. c. 82, s. 6, which by section 4 makes the expenses payable by the Metropolitan Board of Works.



PART III.  
Party  
structures

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PART III.

PARTY STRUCTURES.

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PRELIMINARY.

**Section 82.** LXXXII. In the construction of the following provisions relating to party structures, such one of the owners of the premises separated by or adjoining to any party structure (*a*) as is desirous of executing any work in respect to such party structure shall be called the building owner (*b*), and the owner of the other premises shall be called the adjoining owner (*c*).

Definition  
of building  
owner and  
adjoining  
owner.

(*a*) See section 3, *ante*, p. 3, for the definition of the term "party structure." It was held in a case under a Local Improvement Act that a wall might be a party wall to such height as it is common to two buildings, and to cease to be a party wall for the rest of its height: *Weston v. Arnold*, L. R. 8 Ch. App. 1084; 43 L. J. Ch. 123; 22 W. R. 284.

(*b*) The lessee of a house for a long term of years, who has underlet it in different portions to different tenants, and who is in receipt of the rents from such underlettings, is the "owner" of the party-wall of such house within the meaning of this Act, notwithstanding the underlettings create a greater interest in the under-tenants than that of a yearly tenancy, and he is liable as such owner to pay to the adjoining owner a proportion of the expenses incurred by the latter in repairing the wall in obedience to the requisition of the Commissioners of Sewers made under the Act: *Hunt v. Harris*, 34 L. J. C. P. 249; 19 C. B. (N.S.) 13; 11 Jur. (N.S.) 485; 12 L. T. (N.S.) 421.

(*c*) A tenant in possession, having an equitable interest only under an agreement for a lease for a term is, in equity, an "adjoining owner" under this Act, and three months' notice must be given to him before any alterations affecting his premises can be commenced by his neighbour, under the powers of the Act: *Cowen v. Phillips*, 33 Beav. 18; 9 Jur. (N.S.) 657; 8 L. T. (N.S.) 622; 11 W. R. 706.

One of the occupants of two adjoining tenements in the city of London, wishing to enlarge the basement, dug down beneath



the party wall, and commenced to excavate the soil in order to underpin the wall with brick and concrete. Notice was served on the adjoining owner under this Act, and a surveyor had been appointed on each side, but they had not appointed a third surveyor as required by the Act. On motion for an injunction to restrain the defendants, it was held that in accordance with *Cubitt v. Porter*, 8 B. & C. 257; 2 M. & R. 267, in the absence of evidence of ownership of a party wall, a jury is entitled to find that it is owned by the adjoining proprietors as tenants in common; and that the defendants were acting within their rights as tenants in common of the wall at law, and also as adjoining owners under sects. 82, 83, of this Act; but that they were in the wrong in commencing the work before a third surveyor had been appointed, under sect. 85, sub-sect. 7, of the Act; and that though they now agreed to do so, they must pay the costs of the motion: *Standard Bank of British South America v. Stokes*, L. R. Ch. D. 68; 47 L. J. Ch. 554; 38 L. T. (N.S.) 672; 43 J. P. 91; 26 W. R. 492.

## Section 82.

Note con.

## RIGHTS OF BUILDING AND ADJOINING OWNERS.

LXXXIII. The building owner shall have the following rights in relation to party structures: that is to say, Rights of building owner.

The exercise of the rights conferred by this and the following section is subject to the rules contained in section 85, *post*.

The builder of a house upon a new foundation has no right to erect half his flank or side walls upon his neighbour's vacant ground: *Barlow v. Norman*, 2 W. Bl. 959.

In *Watson v. Gray*, 42 L. T. (N.S.) 295, L. R. 14 Ch. D. 192; 49 L. J. Ch. 243, the question was asked, What is the meaning of "party walls?" to which it was answered by the court:—"The term is rather a popular than a legal one. It seems to be used in four different senses—1. As describing a wall erected on land belonging to the owners of adjoining lands in equal moieties, as tenants in common, as the term was applied in *Wiltshire v. Sidford*, 1 M. & Ry. 404, and in *Cubitt v. Porter*, 8 B. & C. 257; 2 M. & R. 267. 2. Where the wall is divided into longitudinal halves, one half standing on the land of each of two adjoining owners, as in *Matts v. Hawkins*, 5 Taunt. 20. 3. As applied to a wall which belongs entirely to one of two owners of adjoining lands, but which is subject to an easement of user belonging to the other owner, as it is used in many building acts. 4. As applied to a wall longitudinally divided, each moiety being subject to an easement of user by the owner of the other moiety. In



**Section 83.** the ease of walls divided longitudinally, it has been held that there is a right in one owner to pare away the portion standing on his own land, as if one erects a wall upon his own land, and the land of his neighbour, and the neighbour pulls down the wall upon his land, and thereupon all the wall falleth down, this is lawful: *Wigford v. Gill*, Cro. Eliz. 269; *Cubitt v. Porter*, *sup.* 264. In the case of a wall held in common, there is the right of partition, as mentioned in the note to *Willshire v. Sidford*, 1 M. & Ry. p. 408.

*Note con.*  
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(1.) A right to make good or repair any party structure that is defective or out of repair :

A landlord is justified, under this section, in entering premises in the occupation of his tenant from year to year, and pulling down and rebuilding the party wall between it and other premises belonging to him, without giving the notice required by sect. 85, such tenant not being an "owner" within the interpretation clause, sect. 3; and it is no objection that he has neglected to give the notice to the district surveyor required by sect. 38: *Wheeler v. Gray*, 4 C. B. (N.S.) 584; 27 L. J. C. P. 267; 6 W. R. 676; 22 J. P. 434; S. C. *nom. Weal v. Gray*, 31 L. T. (O.S.) 166; affirmed in error, 28 L. J. C. P. 200; 5 Jur. (N.S.) 916; 6 C. B. (N.S.) 606; 7 W. R. 325; 23 J. P. 453.

*Semble*, that the landlord would (if necessary), under such circumstances, be a "person" entitled to notice of action under sect. 108: *ib.*

(2.) A right to pull down and rebuild any party structure that is so far defective or out of repair as to make it necessary or desirable to pull down the same :

A building owner who pulls down a party wall under the authority of this Act, is not bound to protect by a hoarding or otherwise the rooms of the adjoining owner which are left exposed to the weather during the time that the wall is being pulled down and rebuilt: *Thompson v. Hill*, L. R. 5 C. P. 564; 39 L. J. C. P. 264; 22 L. T. (N.S.) 820; 18 W. R. 1070.

Where a person erected a party wall without pursuing the directions of the Building Act, 1774, and thereby injured his neighbour, he was held liable to an action, notwithstanding that he had *bonâ fide* intended to pursue the authority given by that Act. Such action was, however, held to be subject to the limitations contained in the Act: *Pratt v. Hillman*, 6 D. & R. 360; 4 B. & C. 269.

Upon an appeal from the refusal by Vice-Chancellor HALL of a motion by the plaintiffs, tailors, carrying on business in



premises at the corner of Warwick Court and Holborn, to restrain the defendants, who were erecting a large hotel on the north side of Holborn, between Warwick Court and Brownlow Street, from breaking into and interfering with the plaintiffs' party wall, and from erecting any adjoining wall, unless and until the plaintiffs' wall had been sufficiently repaired and strengthened to bear the increased weight. The plaintiffs' complaint was in substance that the defendants in constructing their works had pulled out timbers so as to leave a hole 1ft. deep in the plaintiffs' wall, and had also taken away a chimney breast, thereby weakening the plaintiffs' wall. Vice-Chancellor HALL, being of opinion that he had no jurisdiction to grant a mandatory injunction upon an interlocutory application, refused the motion, upon an undertaking by the defendants to fill up the holes made by them, and not otherwise to break into or interfere with the plaintiffs' wall. After a long discussion, the order of the Vice-Chancellor was discharged, upon an undertaking by the defendants within a week to tie the independent wall to the party wall at the base, and not to carry up the independent wall any higher until the work had been approved by the district surveyor, with liberty for the plaintiffs' surveyor and architect to inspect the work: *Phillips v. The First Avenue Hotel Company*.—*Times*, 24 Jan., 1882. The above case does not appear in any of the regular reports, with the exception of the following notice in the *Weekly Notes* of the 4th of February, 1882, p. 9:—"Order of HALL, V.C., extended so as to be more favourable to the plaintiffs. Costs to be costs in the action."

## Section 83.

Note con.

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- (3.) A right to pull down any timber or other partition that divides any buildings, and is not conformable with the regulations of this Act, and to build instead a party wall conformable thereto :
- (4.) In the case of buildings having rooms or storeys the property of different owners intermixed, a right to pull down such of the said rooms or stories or any part thereof as are not built in conformity with this Act, and to rebuild the same in conformity with this Act :
- (5.) In the case of buildings connected by arches or communications over public ways or over passages belonging to other persons, a right



Section 83.  
*contd.*

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to pull down such of the said buildings, arches, or communications, or any part thereof, as are not built in conformity with this Act, and to rebuild the same in conformity with this Act :

- (6.) A right to raise any party structure permitted by this Act to be raised, or any external wall built against such party structure, upon condition of making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against such party structure or external wall :

This and the 85th sections do not apply to the case of the mere removal of a building from an adjoining building without disturbing the party structure, and no previous notice under the Act need in such case be given. *Scoble*, however, that if the building sought to be removed be so constructed that its supports form part of the party structure which separates the two buildings, such notice previous to removal would be necessary, although it were not the intention of the person removing the building to make use of the party structure in the erection of new buildings : *Major v. Park Lane Company*, L. R. 2 Eq. 453 ; 14 L. T. (N.S.) 543 ; 30 J. P. 743.

Where a party wall is held by the adjoining owners, as owners in common, neither has a right to build upon it, or to do any act so as to interfere with the user of the top of it by the other : *Watson v. Gray*, *ante*, p. 57.

An arbitrator having found upon a reference, prior to this Act, that the defendants had been negligent in underpinning a party wall partially, and not underpinning the whole, whereby the plaintiff's house sustained damage : it was *held* that the defendants had no right to underpin the wall, partially or wholly, unless they could do so without injury to the plaintiff's house ; and whether the plaintiff had a several interest in half of the wall, or was tenant in common with the defendants of the whole, the defendants were liable for the injury resulting from their mode of dealing with it : *Bradbee v. Christ's Hospital*, 4 M. & G. 714 ; 2 Dow. (N.S.) 164 ; 5 Scott, N. R. 79. Apart from any question as to prescription it has been held that an action will



lie against anyone, who by carelessness or negligence in excavating his own ground, either causes or accelerates the fall of an adjoining house: *Dodd v. Holme*, 3 H. & M. 739; 1 A. & E. 493; and in *Bower v. Peate*, L. R. 1 Q. B. D. 321, it was held that a man who orders a work to be executed on his own premises, lawful in itself, but from which, in the natural course of things, injurious consequences to his neighbour must be expected to arise, unless means are adopted by which such consequences may be prevented, is bound to see to the doing of that which is necessary to prevent the mischief; and cannot relieve himself of his responsibility by employing some one else to do what is necessary to prevent the act he had ordered to be done from becoming wrongful. In pulling down his own wall, however, a man is not bound to use extraordinary caution, where he is ignorant of the existence of an adjoining wall, as where it is underground: *Chadwick v. Trower*, 6 Bing. N. C. 1; 8 Scott, 1. The case of *Bower v. Peate*, *ante*, was approved of in *Dalton v. Angus*, L. R. 6 App. Cas. 740; 50 L. J. Q. B. 689, where it was held that a right to lateral support of a building from adjoining land is capable of being acquired by twenty years' uninterrupted enjoyment. And it has since been held that where ancient buildings belonging to different owners adjoin each other there is a right of support from the building as well as from the land; and this right of support can be claimed under the provisions of the Prescription Act, 2 & 3 Will. 4. c. 71. The mere fact that the support is derived from property which belongs to an ecclesiastical corporation does not prevent the right of support being acquired under the Act. But the enjoyment of the right must have been open and not surreptitious to come within the provisions of the Act. Damage having been done by the wrongful acts of a contractor or his workmen, employed under a contract and specification, to a neighbour's vault, it was held, under the circumstances, that both the employer and contractor were liable for it, and judgment was given for the plaintiff, with costs against both defendants: *Lemaitre v. Davis*, L. R. 19 Ch. D. 281.

The term "raise" in sub-sect. 6, is not confined to raising above ground, but includes raising a wall by something added to the foundation: *Standard Bank of South America v. Stokes*, *ante*, p. 57.

This section does not protect a building owner from liability for any collateral damage resulting from the building or raising a party structure; and does not, therefore, authorize the raising of a structure so as to obstruct ancient lights in the adjoining premises, and there being no right given by the Act, there is no question for an arbitrator under sect. 85, *post*: see *Crofts v. Haldane*, L. R. 2 Q. B. 194; 8 B. & S. 191; 36 L. J. Q. B. 85; 16 L. T. (N.S.) 116; and *Titterton v. Conyers*, 5 Taunt. 465;

## Section 83.

Note con.



**Section 83.** 1 Marsh, 140 ; and *Wells v. Ody*, 1 M. & W. 452 ; 7 C. & P. 410 ; 5 D. P. C. 95 ; 2 Gale, 12, cited therein.  
*Note con.*

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(7.) A right to pull down any party structure that is of insufficient strength for any building intended to be built, and to rebuild the same of sufficient strength for the above purpose, upon condition of making good all damage occasioned thereby to the adjoining premises, or to the internal finishings and decorations thereof :

A building owner who fails to make good any damage occasioned to the adjoining premises through the exercise of his powers under this section is liable to a cumulative penalty of 20*l.* See section 94, *post*, and note thereto.

(8.) A right to cut into any party structure upon condition of making good all damage occasioned to the adjoining premises by such operation :

See note to par. 7.

(9.) A right to cut away any footing or any chimney breasts, jambs, or flues projecting from any party wall, in order to erect an external wall against such party wall, or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation :

See note to par. 7.

(10.) A right to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or building overhanging the ground of the building owner, in order to erect an upright wall against the same, on condition of making good any damage sustained by the wall or



building by reason of such cutting away or taking down : Section 83.  
*contd.*

See note to par. 7, *ante*.

- (11.) A right to perform any other necessary works incident to the connexion of party structure with the premises adjoining thereto :

But the above rights shall be subject to this qualification, that any building which has been erected previously to the time of this Act coming into operation shall be deemed to be conformable with the provisions of this Act if it is conformable with the provisions of an Act passed in the fourteenth year of his late Majesty King George the Third, chapter seventy-eight, or with the provisions of the said Act of the eighth year of Her present Majesty, chapter eighty-four.

See section 109, *post*. The unrepealed sections of these Acts will be found in the Appendix, *post*.

LXXXIV. Whenever the building owner proposes to exercise any of the foregoing rights with respect to party structures the adjoining owner may require the building owner to build on any such party structure certain chimney jambs, breasts, or flues, or certain piers or recesses, or any other like works for the convenience of such adjoining owner ; and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his right ; and any difference that arises between any building owner and adjoining owner in respect of the execution of such works as aforesaid shall be determined in manner

Rights of adjoining owner.



**Section 84.** in which differences between building owners and adjoining owners are hereinafter directed to be determined.

*contd.*

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Rules as to exercise of rights by building and adjoining owners.

LXXXV. The following rules shall be observed with respect to the exercise by building owners and adjoining owners of their respective rights:—

- (1.) No building owner shall, except with the consent of the adjoining owner, or in cases where any party structure is dangerous, in which cases the provisions hereby made as to dangerous structures shall apply, exercise any right hereby given in respect of any party structure, unless he has given at least three months' (a) previous notice to the adjoining owner by delivering the same to him personally, or by sending it by post in a registered letter addressed to such owner at his last known place of abode :

(a) Calendar months, 13 & 14 Viet. c. 21, s. 4.

While the defendants served a party-wall notice on the plaintiffs, and stated by an indorsement on it that the time for consent and naming a surveyor were embodied in the notice, as thereby the requisite proceedings would be cleared and shortened, it was proved that the wall was not a party wall, but the defendants refused to withdraw the notice, saying that it would expire in three months, and intimating that they did not intend to proceed, and that nothing would be done without further notice : It was held that the plaintiff was justified in filing a bill for injunction, and that the defendants must pay the costs : *Sims v. The Estates Company*, 14 L. T. (N.S.) 55 ; 14 W. R. 419 ; see also *Wheeler v. Gray*, *ante*, p. 58.

Although a tenant in the occupation of premises under an agreement, not under seal, for a longer period than three years, is at law only a tenant from year to year, yet, the agreement being enforceable in equity as an agreement for a lease, he is entitled, as an "adjoining owner" to be served with the proper notice, required by this section, of the works intended to be executed by the "building owner." *Cowen v. Phillips*, 9 Jur. (N.S.) 657 ; 8 L. T. (N.S.) 622 ; 11 W. R. 706 ; 33 Beav. 18.



No previous notice under this section need be given in the case of the mere removal of a building from an adjoining building without disturbing the party structure. But if the building sought to be removed be so constructed that its supports form part of the party structure which separates the two buildings, such notice previous to removal would, no doubt, be necessary, although it were not the intention of the person removing the building to make use of the party structure in the erection of new buildings: *Major v. Park Lane Company*, L. R. 2 Eq. 453; 14 L. T. (N.S.) 543; 30 J. P. 713.

See the authorized form of notice by a building owner, No. 3, published by Shaw & Sons.

(2.) The notice so given shall be in writing or printed, and shall state the nature of the proposed work, and the time at which such work is proposed to be commenced:

(3.) No building owner shall exercise any right hereby given to him in such manner or at such time as to cause unnecessary inconvenience to the adjoining owner:

See the cases of *Thompson v. Hill*, ante, p. 58; and the cases cited in the note to sub-section 6 of section 83. The case of *Bower v. Peate*, therein cited was explained in the case of *Percival v. Hughes*, L. R. 9 Q. B. D. 441, where an action was held to be maintainable against the owner of a house in respect of injury caused to adjoining premises through workmen of the builder, employed by such owner, negligently and without the knowledge of the defendant or his architect, cutting into a party wall dividing the two houses. Under the Act of 1774 it was held that a *mandamus* was not grantable where a party wall had been pulled down and rebuilt, but the interior decorations in the adjoining house, which had been on the old wall, had not been replaced, remedy being by action: *Reg. v. Ponsford*, 1 D. & L. 116; 7 Jur. 767; 12 L. J. Q. B. 313.

Under section 94, *post*, the building owner is made liable to a penalty for failing to execute works as required by this Act.

(4.) Upon the receipt of such notice the adjoining owner may require the building owner to build or may himself build on any such party structure any works to the construction of which he is hereinbefore mentioned to be entitled:



**Section 85.**  
*contd.*  

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- (5.) Any requisition so made by an adjoining owner shall be in writing or printed, and shall be delivered personally to the building owner within one month after the date of the notice being given by him, or be sent by post in a registered letter addressed to him at his last known place of residence: It shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied with explanatory plans and drawings:
- (6.) If either owner does not, within fourteendays after the delivery to him of any notice or requisition, express his consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner:
- (7.) In all cases not hereby specially provided for where a difference arises between a building owner and adjoining owner in respect of any matter arising under this Act, unless both parties concur in the appointment of one surveyor they shall each appoint a surveyor, and the two surveyors so appointed shall select a third surveyor, and such one surveyor, or three surveyors, or any two of them, shall settle any matter in dispute between such building and adjoining owner, with power by his or their award to determine the right to do, and the time and manner of doing any work, and generally any other matter arising out of or incidental to such difference; but any time so appointed for doing any work shall not commence until



after the expiration of such period of three months, as is hereinbefore mentioned : Section 85.  
contd.

(a) See the further provisions as to settlement of differences between building and adjoining owners contained in 45 Vict. c. 14, s. 21, *post* p. 144.

This paragraph only applies in cases where the act done is authorised by the statute—*Crofts v. Haldane*, *ante*, p. 61 ; but the Act was held not to oust the powers of the Court of Chancery in a case which was not within the provisions of the Act. See *Sims v. The Estates Company*, *ante*, p. 64.

If the surveyors appointed under the section refuse to appoint an umpire the court will appoint an umpire under the Common Law Procedure Act: *Ex parte McBryde* L. R. 4 Ch. D. 200 ; 46 L. J. Ch. 153 ; 35 L. T. (N.S.) 543.

A district surveyor is a fit person to be appointed as umpire under this section, see *Seawell v. Webster*, 7 W. R. 691 ; 29 L. J. Ch. 71.

(8.) Any award given by such one surveyor, or by such three surveyors, or any two of them, shall be conclusive, and shall not be questioned in any court, with this exception, that either of the parties to the difference may appeal therefrom to the county court within fourteen days from the date of the delivery of any such award as aforesaid, and such county court may, subject as hereinafter mentioned, rescind or modify the award so given in such manner as it thinks just :

An appeal to the county court under this paragraph, and thence to the superior tribunals, is the only mode of appealing against an award under this section: *Seawell v. Webster*, *ubi supra*.

(9.) If either party to the difference makes default in appointing a surveyor for ten days after notice has been given to him by the other party in manner aforesaid to make such appointment, the party given (*sic*) the notice may make the appointment in the place of the party so making default :

(10.) The costs incurred in obtaining any such



## Section 85.

*contd.*

award as aforesaid shall be paid by such party as such one surveyor, or three surveyors, or any two of them, may determine :

(11.) If the appellant from any such award as aforesaid, on appearing before the county court, declares his unwillingness to have the matter decided by such court, and proves to the satisfaction of the judge of such court that in the event of the matter being decided against him he will be liable to pay a sum, exclusive of costs, exceeding fifty pounds, and gives security, to be approved by such judge, duly to prosecute his appeal and to abide the event thereof, all proceedings in the county court shall thereupon be stayed ; and it shall be lawful for such appellant to bring an action in one of Her Majesty's superior courts of law at Westminster against the other party to the difference ; and the plaintiff in such action shall deliver to the defendants an issue or issues whereby the matters in difference between them may be tried ; and the form of such issue or issues, in case of dispute, or in case of the non-appearance of the defendant, shall be settled by the court in which the action is brought ; and such action shall be prosecuted and issue or issues tried in the same manner and subject to the same incidents in and subject to which actions are prosecuted and issues tried in other cases within the jurisdiction of such court, or as near thereto as circumstances admit :

The High Court of Justice must now be understood, see 36 & 37 Vict. c. 66 ; and as to the mode of trial see the Judicature Act, 1875, order 36.



- (12.) If the parties to any such action agree as to the facts, a special case may be stated for the opinion of any such superior court as aforesaid, and any case so stated may be brought before the court in like manner and subject to the same incidents in and subject to which other special cases are brought before such court, or as near thereto as circumstances admit; and any costs that may have been incurred in the county court by the parties to such action as is mentioned in this section shall be deemed to be costs incurred in such action, and be payable accordingly.

Section 85.

*contd.*

LXXXVI. Whenever any building owner has become entitled, in pursuance of this Act, to execute any work, it shall be lawful for him, his servants, agents, or workmen, at all usual times of working, to enter on any premises, for the purpose of executing and to execute such work, removing any furniture, or doing any other thing that may be necessary, and if such premises are closed he or they may, accompanied by a constable or other officer of the peace, break open any doors in order to (*sic*) such entry; and any owner or other person that hinders or obstructs any workman employed for any of the purposes aforesaid, or wilfully damages or injures the said work, shall incur for every such offence a penalty not exceeding ten pounds, to be recovered before a justice of the peace.

Power for building owner to make entry on premises to effect works.

Penalty on persons obstructing.

Penalties are recoverable under section 103, *post*.

LXXXVII. Any adjoining owner may, if he thinks fit, by notice in writing given by himself or his agent, require the building owner, before commencing any work which he may be authorized by this Act to

Security to be given by building owner, if required by adjoining owner.



Section 187.  
*contd.*

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execute, to give such security as may be agreed upon, or in case of difference may be settled by the judge of the county court, for the payment of all such costs and compensation in respect of such work as may be payable by such building owner.

Rules as to ex-  
 penses in respect  
 of party struc-  
 ture.

LXXXVIII. The following rules shall be observed as to expenses in respect of any party structure ; (that is to say,)

As to expenses to be borne jointly by the building owner and adjoining owner :

- (1.) If any party structure is defective or out of repair the expense of making good or repairing the same shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such structure :
- (2.) If any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull down the same, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such structure :

This section only applies to the expenses of pulling down and rebuilding a party structure, so far as it is used as such ; see *Knight v. Pursell*, L. R. 11, Ch. D. 412 ; 48 L. J. Ch. 395 ; 40 L. T. (N.S.) 391 ; 27 W. R. 817 ; 43 J. P. 622.

Works executed in pursuance of section 88, not being for the sole benefit of either the building or adjoining owner, the building owner is not bound to make good damage caused to the adjoining owner's house, although such damage was the necessary consequence of the execution of the works : *Bryer v. Willis*, 19 W. R. 102 ; 23 L. T. (N.S.) 463.



- (3.) If any timber or other partition dividing any building is pulled down, in exercise of the right hereinbefore vested in a building owner, and a party structure built instead thereof, the expense of building such party structure, and also of building any additional party structures that may be required by reason of such partition having been pulled down, shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such party structure, and to the thickness required to (*sic*) the respective buildings parted thereby: Section 88.  
*contd.*
- (4.) If any room or storeys, or any part of rooms or storeys, the property of different owners, and intermixed in any building, are pulled down in pursuance of the right hereinbefore vested in any building owner, and rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such rooms or storeys :
- (5.) If any arches or communications, or any parts thereof, are pulled down in pursuance of the right hereinbefore vested in any building owner, and rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such arches or communications :



**Section 88.***contd.*  

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As to expenses to be borne by building owner :

- (6.) If any party structure or external wall built against the same is raised in pursuance of the power hereinbefore vested in any building owner, the expense of raising the same, and of making good all such damage, and of carrying up to the requisite height all such flues and chimneys as are hereinbefore required to be made good and carried up, shall be borne by the building owner :
- (7.) If any party structure which is of proper materials and sound, or not so far defective or out of repair as to make it necessary or desirable to pull down the same, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same, and of making good all such damage as is hereinbefore required to be made good, shall be borne by the building owner :
- (8.) If any party structure is cut into by the building owner the expense of cutting into the same and of making good any damage hereinbefore required to be made good, shall be borne by such building owner :
- (9.) If any footing, chimney breast, jambs, or floor is cut away in pursuance of the powers hereinbefore vested in any building owner, the expense of such cutting away, and of making good any damage hereinbefore required to be made good, shall be borne by the building owner.

It may here be noticed that under the Act of 1774 it was held that a builder could recover upon a contract to rebuild a party wall, notwithstanding that the requirements of the Act had not been observed: *Stuart v. Smith*, 7 Taunt. 158; 2 Marsh. 435.



LXXXIX. Within one month (a) after the completion of any work which any building owner is by this Act authorized or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, such building owner shall deliver to the adjoining owner an account in writing of the expense of the work, specifying any deduction to which such adjoining owner or other person may be entitled in respect of old materials, or in other respects; and every such work as aforesaid shall be estimated and valued at fair average rates and prices, according to the nature of the work and the locality, and the market price of materials and labour at the time.

## Section 89.

Account of expenses of works to be delivered to adjoining owner within one month.

(a) *i.e.*, calendar month, 13 & 14 Vict. c. 21, s. 4.

XC. At any time within one month after the delivery of such account, the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the party delivering the same, by notice in writing given by himself or his agent, and specifying his objections thereto; and upon such notice having been given a difference shall be deemed to have arisen between the parties, and such difference shall be determined in manner hereinbefore provided for the determination of differences between building and adjoining owners.

Adjoining owner may appeal against account.

As to settlement of differences by arbitration, see sect. 85, sub-sect. 7, *et seq.*, *ante*, p. 66.

XCI. If within such period of one month as aforesaid the party receiving such account does not declare in manner aforesaid his dissatisfaction therewith, he shall be deemed to have accepted the same, and shall pay the same, on demand, to the party delivering the account, and if he fails to do so the amount so due may be recovered as a debt.

Building owner may recover, if no appeal made.



**Section 92.** XCII. Where the adjoining owner is liable to contribute to the expenses of building any party structure, until such contribution is paid the building owner at whose expense the same was built shall stand possessed of the sole property in such structure.

Penalty on delay of payment by adjoining owner.

As to expenses incurred on requisition of adjoining owner.

XCIII. Where any building owner has incurred any expenses on the requisition of an adjoining owner, the adjoining owner making such requisition shall be liable for all such expenses, and in default of payment the same may be recovered from him as a debt.

Penalty on building owner failing to execute required works.

XCIV. Where any building owner is, by the third part of this Act, liable to make good any damage he may occasion to the property of the adjoining owner by any works authorized to be executed by him, or to do any other thing upon condition of doing which his right to execute such works is hereby limited to arise, and such building owner fails within a reasonable time to make good such damage or to do such thing, he shall incur a penalty, to be recovered before a justice of the peace, not exceeding twenty pounds for each day during which such failure continues.

The penalty imposed by this section is cumulative, and it does not take away the common law right of the party injured to bring an action for damages: *Williams v. Golding*, L. R. 1 C. P. D. 69; 35 L. J. C. P. 1; 1 H. & R. 18; 11 Jur. (N.S.) 952; 13 L. T. (N.S.) 291; 14 W. R. 60.

Penalties under this Act are recoverable under section 103, *post*, p. 81.

Consent how given on behalf of persons under disability.

XCV. Where, in pursuance of this Act, any consent is required to be given, any notice to be served, or any other thing to be done by, on, or to any owner under disability, such consent may be given, such notice may be served, and such thing may be done by,



on, or to the following persons, on behalf of such persons under disability; that is to say, Section 95.  
*contd.*

By, on, or to a husband, on behalf of his wife :

By, on, or to a trustee, on behalf of his cestuique trust :

By, on, or to a guardian or committee, on behalf of an infant, idiot, or lunatic.

XCVI. Where any consent is required to be given or any other thing to be done by any owner in pursuance of this Act, if there is no owner capable of giving such consent or of doing such thing, and no person empowered by this Act to give such consent or to do such thing on behalf of such owner, or if any owner so capable, or any person so empowered, cannot be found, the judge of the county court shall have power to give such consent or do or cause to be done such thing on behalf of such owner, upon such terms and subject to such conditions as he may think fit, having regard alike to the nature and purpose of the subject matter in respect of which such consent is to be given, and to the fair claims of the parties on whose behalf such consent is to be given; and such judge shall have power to dispense with the service of any notice which would otherwise be required to be served.

Consent how  
given on behalf  
of persons not  
to be found



PART IV.  
Miscellaneous  
Provisions.

PART IV.

MISCELLANEOUS PROVISIONS.

Section 97.

Payment of  
expenses by  
owners.

XCVII. Where it is hereby declared that expenses are to be borne by the owner of any premises (including in the term "owner" the adjoining and building owner respectively), the following rules shall be observed with respect to the payment of such expenses :

See sections 73, 88, and 93, *ante*, and the notes thereto.

For definitions of "owner," "building owner," and "adjoining owner," see sections 3 and 82, *ante*.

The following rules would appear to be unaffected by covenants to repair entered into between landlord and tenant ; see *Sangster v. Birkhead*, 1 B. & T. 303 ; and *Moore v. Clarke*, 5 Taunt. 90 ; but a tenant would be liable to pay the moiety of the expense of repairing a party wall under an express covenant : *Barrett v. Bedford* (Duke of) 5 T. R. 602.

- (1.) The owner immediately entitled in possession to such premises, or the occupier thereof, shall in the first instance pay such expenses, with this limitation, that no occupier shall be liable to pay any sum exceeding in amount the rent due or that will thereafter accrue due from him in respect of such premises during the period of his occupancy :

A tenant who has been compelled by the building owner to pay the proportion of the expenses of a party wall or structure which was payable under this Act by his landlord, the adjoining owner, may maintain an action against the latter to recover the sum so paid, and is not bound (though entitled) to deduct it from rent due or accruing due : *Earle v. Mangham*, 14 C. B. (N.S.) 626 ; 10 Jur. (N.S.) 208 ; 8 L. T. (N.S.) 637 ; S. C. *Nom.* *Earle v. Mangham*, 11 W. R. 911.

The lessee of a house for a long term of years, who has underlet it in different portions to different tenants, and who is in receipt of the rents from such underletting, is the "owner" of the party wall of such house within the meaning of this



Act, notwithstanding that the underlettings create a greater interest in the under tenants than that of a yearly tenancy.

## Section 97.

Note con.

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ERLE, C. J.: "It seems to me to be perfectly clear that the party upon whom the duty of payment is cast is the owner of the structure within the meaning of sect. 3, namely, a person in possession or receipt of the rents or profits of the premises, that is to say, the person having a beneficial lease and entitled to the rackrent." . . . "That the statute contemplated something in the nature of a permanent interest in the adjoining owner of the whole of the premises appears from sect. 84." . . . "I think that the clause (*i.e.* sect. 97) refers to the definition in sect. 3 of the word 'owner,' and it means 'in the receipt of the rents and profits,' and is put in contradistinction to an occupier of the premises." . . . "But my opinion is clear that the owner of a long term, who has underlet the premises, and who is entitled to the rackrents, is liable."

BYLES, J.: "It is plain here that the defendant is the 'owner,' both within the meaning of the Act of Parliament and in the popular sense of the word. It seems to me that he is more than that, he is the occupying owner:" *Hunt v. Harris* 34 L. J. C. P. 249; 19 C. B. (N.S.) 13; 11 Jur. (N.S.) 485; 12 L. T. (N.S.) 421.

See also the case of *Ex parte The Overseers of Saffron Hill*, ante, p. 51.

- (2.) If there are more owners than one, every owner shall be liable to contribute to such expenses in proportion to his interest:

Upon a summons to recover expenses incurred by the Board of Works under this Act, the magistrate is not obliged to have every owner before him, if there are more than one, nor to order them to contribute: *Debenham v. Metropolitan Board of Works*, L. R. 6 Q. B. D. 112; 50 L. J. M. C. 29; 43 L. T. (N.S.) 596; 29 W. R. 353; 45 J. P. 190.

- (3.) If any difference arises as to the amount of contribution, such difference shall be decided by arbitration, to be conducted in manner directed by the Companies Clauses Consolidation Act, 1845; and for that purpose the clauses of the said Act with respect to the settlement of disputes by arbitration shall be incorporated with this Act:

These clauses will be found in the Appendix (A.), *post*, p. 160.



Section 97.  
*contd.*  


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(4.) If some of the owners liable to contribution cannot be found, the deficiency so arising shall be divided amongst the parties that can be found :

(5.) Any occupier of premises who has paid any expenses under this Act may deduct the amount so paid from any rent payable by him to any owner of the same premises ; and any owner of premises who has paid more than his due proportion of any expenses may deduct the amount so overpaid from any rent that may be payable by him to any other owner of the same premises :

A tenant may sue for the amount instead of deducting it from his rent: *Earle v. Maughan*, 14 C. B. (N.S.) 626 ; 8 L. T. (N.S.) 637 ; 10 Jur. (N.S.) 208 ; S. C. *Nom. Earle v. Maughan*, 11 W. R. 911.

(6.) If default is made by any owner or occupier in payment of any expenses hereby made payable by him in the first instance, or if default is made by any owner in payment of any other expenses or moneys due from him by way of contribution or otherwise in pursuance of this Act, then in addition to any other remedies hereby provided such expenses and moneys, if arising in respect of any matter within the provisions of the third part of this Act, may be recovered as a debt in due course of law, but if arising in respect of any other matter under this Act may be recovered in a summary manner.

See also the further provisions contained in 45 Vict. c. 14, s. 18, *post*.



XCVIII. The following rules shall be observed Section 98.  
 with respect to the giving or service of any notice, Rules as to  
service of  
notices,  
summonses, and  
orders.  
 summons, or order directed to be giving (*sic*) or served  
 under this Act in cases not hereinbefore provided  
 for :

(1.) A notice, summons, or order may in all cases  
 be served personally :

(2.) A notice, summons, or order may be served on  
 any builder by leaving the same or sending  
 it in a registered letter addressed to him at  
 his place of address as stated by him to the  
 district surveyor, or by putting up such  
 notice, summons, or order on a conspicuous  
 part of the building or premises to which the  
 same relates :

(3.) A notice, summons, or order may be served on  
 the owner or occupier of any premises by  
 leaving the same with the occupier of such  
 premises, or with some inmate of his abode,  
 or if there is no occupier by putting up such  
 notice, summons, or order on a conspicuous  
 part of the building or premises to which the  
 same relates ; and it shall not be necessary  
 to name the owner or occupier of such  
 premises ; nevertheless, when the owner of  
 any such premises and his residence, or that  
 of his agent, are known to the party by  
 whom or on whose behalf any notice,  
 summons, or order is intended to be served,  
 it shall be the duty of such party to  
 send every such notice, summons, or  
 order by the post in a registered letter  
 addressed to the residence or last known



Section 98.  
*contd*

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residence of such owner or of his agent:

- (4.) A notice, summons, or order may be served on any district surveyor by leaving the same at his office.

Further, with regard to this section, see 45 Vict. c. 14, s. 19, *post*.

As to things  
authorized to be  
done by a  
county court.

XCIX. Whenever anything is hereby authorized to be done by a county court it may be done as follows; that is to say, if such thing arises in respect of any structure or other subject matter situate within the city of London or the liberties thereof, by the Sheriffs' Court established by a local Act passed in the eleventh year of the reign of Her Majesty, chapter seventy-one, intituled *An Act for the more easy Recovery of Small Debts and Demands within the City of London or the Liberties thereof*, and if such thing arises in respect of any structure or other subject matter situate elsewhere, by the county court having jurisdiction within the district in which such structure or other subject matter is situate.

11 & 12 Vict.  
c. lxxi.

See section 70, *ante*, p. 47.

Manner of  
determining  
differences.

C. In cases where jurisdiction is hereby given to a county court, such court may from time to time make such order in respect of matters so brought before it as it may think fit, with power to settle the time and manner of executing any work, or of doing any other thing, and to put the parties to the case upon such terms as respects the execution of the work as it thinks fit: It shall also have power to award or refuse costs according to circumstances, and to settle the amount thereof.

Form of pro-  
ceedings in  
county court.

CI. Proceedings in any county court in respect of any matter arising under this Act shall be conducted in the same manner as proceedings are conducted in any



case within the ordinary jurisdiction of such court, or as near thereto as circumstances permit; and orders made by the judge of any such court may be enforced by execution, committal, or otherwise, in a similar manner to that in which the orders of such court are ordinarily enforced. Section 101.  
contd.

CII. If either party in any case over which jurisdiction is hereby given to a county court feels aggrieved with the decision of such court in respect of any point of law or the admission or rejection of any evidence, he may appeal therefrom in the same manner and upon the same terms in and upon which he might have appealed from the decision of such court in any case within the ordinary jurisdiction of such court, or as near thereto as circumstances permit; but no such appeal shall be allowed unless the value of the matter in difference between the parties exceeds fifty pounds; and the opinion of the judge before whom the case is tried as to such value shall be conclusive. Appeal from  
decision of  
county court.

CIII. All penalties under this Act, and all fees, moneys, costs, or expenses by this Act directed to be recovered in a summary manner, may be recovered in manner directed by an Act passed in the eleventh and twelfth years of the reign of Her present Majesty Queen Victoria, chapter forty-three, intituled *An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders* (a): and whenever anything is hereby authorized or required to be done by or before a justice of the peace it may be done as follows; that is to say, if such thing arises in respect of any building or wall situate within the city of London, by or before one or more justice or justices of the peace for the said city or by any metro- Recovery of  
penalties.



Section 103. politan police magistrate, and if such thing arises in  
*contd.*  
 — respect of any building or wall situate elsewhere within  
 the limits of this Act, by or before any metropolitan  
 police magistrate.

(a) See *Glen's Summary Jurisdiction Acts, 1848-1879*, fourth edition, Shaw & Sons.

The complaint upon which an order for demolition is to be founded must be made within six months after the completion of a building erected contrary to the provisions of the Act: *Morant v. Taylor*, L. R. 1 Exch. D. 188; 45 L. J. M. C. 78; 34 L. T. (N.S.) 139; 24 W. R. 461.

It will be noticed that under this section any metropolitan police magistrate will have jurisdiction within the city of London.

By section 73, *ante*, p. 48, all expenses incurred by the commissioners in respect of any dangerous structure shall be paid by the owner; and by section 103 all expenses to be recovered in a summary manner, may be recovered as directed by the 11 & 12 Vict. c. 43, by section 11 of which complaint must be laid within six months from the time when the matter of such complaint arose. The owner of a dangerous structure not having taken it down, as required pursuant to this Act, the commissioners took it down; and the amount of the expenses incurred was demanded of the owner and refused. A complaint was laid before a magistrate for the non-payment of the expenses within six months of the demand and refusal, but beyond six months from the completion of the works. *Held*, that the matter of complaint was the non-payment of the expenses, and that the time of limitation ran from the demand and not from the completion of the works; therefore, that the complaint was in time: *Labalmondiere*, app., *Addison*, resp., 28 L. J. M. C. 25; 5 Jur. (N.S.) 431; 1 E. & E. 41; and see the note to section 73, *ante*.

Application of  
 penalties.

CIV. Any justice of the peace in any case over which jurisdiction is hereby given to him may make such order as to the costs of any proceedings of which he has cognizance as he thinks just; he may also direct the whole or any part of any penalty imposed by him under this Act to be applied in or towards payment of the costs of the proceedings; and subject to such direction, all penalties shall be paid into the hands of the treasurer of the said Metropolitan Board, to be applied in such manner as the said board thinks fit.



CV. In cases where any building has been erected or work done without due notice being given to the district surveyor, the district surveyor may, at any time within one month (*a*) after he has discovered that such building has been erected or work done, enter the premises for the purpose of seeing that the regulations of this Act have been complied with, and the time during which the district surveyor may take any proceeding, or do anything authorized or required by this Act to be done by him, in respect of such building or work, shall begin to run from the date of his discovering that such building has been erected or work done.

**Section 105.**  
Provisions as to  
limitation of  
time when due  
notice has not  
been given.

(*a*) *i.e.* calendar month. See 13 & 14 Vict. c. 21, s. 4.

CVI. In every case, except in respect of fees of a district surveyor, in which jurisdiction is hereinbefore given to a justice of the peace, if either party to any such case is dissatisfied with the determination of the justice so convicting (*a*), in respect of any point of law, or of the admission or rejection of any evidence, such party may, upon giving notice within seven days to the other party of his intention to appeal, appeal therefrom to any of the superior courts of common law at *Westminster* (*b*); subject to this restriction, that no such appeal shall be made by any district surveyor except with the consent of the justice before whom the case is tried, and that no such appeal shall be made by any other party to the case except upon giving such security for costs, and, if the case requires it, in addition thereto, such undertaking in respect of desisting in the meantime from any works complained of, or in respect of any other matter or thing arising in the case, as the justice thinks fit.

Power to appeal  
to superior  
courts.

(*a*) It is not necessary that there should have been a conviction in order that an appeal should lie under this section. The word



Section 106. "convicting" is to be read as "acting:" *Scott v. Legg*, W. N. 1877, Pt. I. p. 110.

Note con.

(b) The High Court of Justice will here be understood.

This section does not take away the right to appeal against the decision of a magistrate under 20 & 21 Vict. c. 43: *Power v. Wigmore*, L. R. 7 C. P. 386; 27 L. T. (N.S.) 148.

Form of  
appeal.

CVII. Any appeal so made shall be in the form of a special case, to be agreed on by both parties, or, if the parties cannot agree, to be settled by the justice from whose decision the appeal is made; and such case shall be transmitted by the appellant to the rule department of the master's office in the court in which the appeal is to be brought, and be heard in manner provided by the practice of such court.

Notice of  
action.

CVIII. No writ or process shall be sued out against any district surveyor or other person (a) for anything done or intended to be done under the provisions of this Act until the expiration of one month (b) next after notice in writing has been delivered to him or left at his office or usual place of abode, stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause (c); and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in such last-mentioned notice; and unless such notice is proved the jury shall find for the defendant; and every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards, *and shall be laid and tried in the county or place where the cause of action occurred*, and not elsewhere; and the defendant shall be at liberty to plead the general issue, and give this Act and all special matter in evidence thereunder.

(a) The plaintiff was tenant from year to year to the defendant, of premises, separated by a party wall from other premises of



which the defendant was also owner, and he, for the purpose of doing necessary repairs to the party wall, entered on the plaintiff's premises against the will of the plaintiff, and without notice to the plaintiff or to the district surveyor. *Held*, in an action of trespass for pulling down the wall, that the defendant was justified, under the 83rd section of this Act. The 108th section provides, that no writ shall issue "against any district surveyor or other person for anything done or intended under the provisions of this Act," until after notice of action, and that such action shall be brought within six months after the accrual of the cause of action. *Quære*, whether the defendant was entitled to notice of action under that section, as answering the description "other person." *Seem*, per COCKBURN, C. J., that he was: *Wheeler v. Gray*, 27 L. J. C. P. 267; 4 C. B. (N.S.) 584; 6 W. R. 676; 22 J. P. 434; S. C. *Nom.*, *Weal v. Gray*, 31 L. T. (O.S.) 166: Affirmed in Error, 5 Jur. (N.S.) 916; 28 L. J. C. P. 200; 6 C. B. (N.S.) 606; 7 W. R. 325; 23 J. P. 453.

## Section 108.

Note con.

Section 83 (8) gives to a building owner "a right to enter into any party structure upon condition of making good all damage occasioned to the adjoining premises by such operation." By section 94, a building owner who fails to make good any damage he may occasion to adjoining premises by works authorized to be executed by him incurs a penalty not exceeding 20*l.* for each day during which such failure continues. The defendant in fulfilling a contract with a building owner to build a house adjoining the house of the plaintiff, so negligently dug the ground for the foundation of the house about to be built and underpinned the party wall that the plaintiff's house was injured. *Held*, first, that the words "other person" in this section include only official persons discharging official duties cast upon them by the Act, or persons doing some act in respect of which they are performing or intending to perform a statutory duty. Secondly, that the defendant therefore was not entitled to notice of action under this section. Thirdly, per ERLE, C. J., that the defendant having broken the condition on which he was empowered, under section 83, to do the act complained of, supplied another reason why he was not entitled to the protection of section 108. Fourthly, per ERLE, C. J., that the remedy in section 94 was cumulative: *Williams v. Golding*, 1 H. & R. 18; 1 L. R. C. P. 69; 35 L. J. C. P. 1; 11 Jur. (N.S.) 952; 13 L. T. (N.S.) 291; 14 W. R. 60.

(b) *i.e.* calendar month: see 13 & 14 Vict. c. 21, s. 4.

(c) The right to plead not guilty under any statute, is not taken away by the Judicature Acts: see 38 & 39 Vict. c. 77, Order 19, r. 16.

The fact that the notice, required by this section to be given, has been omitted, however, would apparently require to be pleaded for the plaintiff to be at liberty to avail himself of such want of notice: see *Davey v. Warne*, 14 M. & W. 199.

The general principle to be applied to the construction of Acts of Parliament is, that a general act is not to be construed to



**Section 108.** repeal a previous particular Act, unless there is some express reference to previous legislation on the subject, or unless the two Acts are necessarily inconsistent: *Thorpe v. Adams*, L. R. 6 C. P. 125; 40 L. J. M. C. 52; 23 L. T. (N.S.) 810; 19 W. R. 352. The local venue given by this section, therefore, would appear to survive notwithstanding the general abolition of local venue by the Judicature Act, 1875, Order 36; and under the Act of 1774 it was held that the defence, that the venue in an action under that Act was not laid in Middlesex pursuant to section 100 of the Act, was one which must be specially pleaded, and could not be taken advantage of under the plea of not guilty: *Richards v. Easlo*, 15 M. & W. 244; 10 Jur. (N.S.) 695; 15 L. J. Ex. 163.

The non-performance of the duties imposed by the Metropolis Local Management Act, 1855, has been held to be a good cause of action, and the same would no doubt be the case under these Acts: see *The Guardians of Holborn Union v. The Vestry of St. Leonards, Shoreditch*, L. R. 2 Q. B. D. 145; 46 L. J. Q. B. 36; 35 L. T. (N.S.) 400; 25 W. R. 40.

PART V.  
*Repeal of  
former Acts,  
and temporary  
Provisions.*

PART V.  
REPEAL OF FORMER ACTS, AND TEMPORARY PROVISIONS.  
*Repeal.*

Repeal of 8 & 9  
Vict. c. 84, ex-  
cept ss. 54 to 63,  
and 9 & 10 Vict.  
c. 5.

CIX. *Repealed by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66).*

As to contracts  
made previously  
to passing of  
Act.

CX. \* \* \* (a) whenever any costs or expenses have been paid by any owner in pursuance of this Act, then as to any structure held under any lease or agreement made previously to the commencement of this Act it shall be lawful for such owner to recover the same from the persons hitherto liable by law, or by such existing lease or contract, to maintain or repair the structure in respect of which such costs and expenses have been incurred.

(a) The preceding part of this clause was repealed by the Statute Law Revision Act, 1875, 38 & 39 Vict. c. 66.

Liabilities under  
contract be-  
tween landlord  
and tenant not  
to be affected.

CXI. Nothing herein contained shall vary or affect the rights or liabilities as between landlord and tenant under any contract between them.



CXII. In cases where any iron building has been constructed or is in the progress of construction previously to the time at which this Act comes into operation, and doubts are entertained whether such building is permitted by law, any person interested in such building may make an application to the commissioners of works and buildings, to signify their approval of such building : and the commissioners of works and buildings, upon being satisfied of the stability of such building, may approve of the same, and upon such approval being given such building shall be deemed to have been constructed in manner permitted by law, and this section shall come into operation immediately after the passing of this Act.

Section 112.

As to iron buildings constructed before this Act comes into operation.

CXIII. The official referees and registrar of metropolitan buildings may, within six months from the time at which this Act comes into operation, apply to the commissioners of Her Majesty's treasury for compensation in respect of the loss they have sustained by reason of the abolition of their offices ; and the commissioners shall take any such application into consideration, and award such compensation, either by way of a gross sum or annual payment, as they think just, having regard to the nature of the office, the time during which the applicant has held the same, and generally to the special circumstances of each case ; and any compensation so given shall be paid out of moneys to be provided by parliament ; and such compensation, when made by annual payment, shall be subject to this proviso, that if any such official referee or registrar is at any time thereafter appointed to any public office in respect of which he receives a salary, the payment of the compensation awarded to him under this Act shall be suspended so long as he receives such salary, if the amount thereof is greater than such compensation, or if not shall be diminished by the amount of such salary.

Compensation to official referees and registrar.



**Section 114.**

Compensation to  
clerks in office of  
metropolitan  
buildings.

CXIV. Any person, except the said official referees and registrar, who at the time when this Act comes into operation is employed in the office of metropolitan buildings may within six months from such time apply to the Metropolitan Board of Works for employment, and such Board shall thereupon take such application into consideration, and they shall either employ the applicant at a salary not less in amount than that which he enjoyed when in the said office of metropolitan buildings, or at a less salary awarding to him compensation in respect of such diminution of salary, or they shall award to him such compensation, if any, as they, or in the event of the applicant feeling aggrieved with their decision, as the commissioners of the treasury think just, having regard to the nature of the office, the time during which it has been held by the applicant, and generally to the special circumstances of the case; and any expenses incurred by the said board in carrying into effect this section shall be deemed to be expenses incurred in the execution of the said Act for the better local management of the metropolis, and be raised accordingly; nevertheless, if any such clerk or servant as aforesaid at any time thereafter is appointed to any public office, or to any office under the said Metropolitan Board in respect of which he receives a salary, the payment of the compensation awarded to him under this Act shall be suspended so long as he receives such salary, if the amount thereof is greater than the amount of such compensation, or if not shall be diminished by the amount of such salary; but, notwithstanding anything herein contained, the Metropolitan Board may, in the event of their employing any person mentioned in this section, dismiss him, with the consent of the treasury.



# FIRST SCHEDULE.

## Sched. 1.

### PRELIMINARY (a).

1. Every building shall be enclosed with walls constructed of brick, stone, or other hard and incombustible substances, and the foundations shall rest on the solid ground, or upon concrete or upon other solid sub-structure. Structure of buildings.

*Note.*—The words “every building shall be enclosed with walls constructed of brick, stone, or other hard and incombustible substance,” amount to a prohibition against building the walls of wood or other combustible substance; therefore a wooden structure intended to be used as a shop, of a considerable size, and likely to last a considerable time, resting on joists, but having no footing or foundations in masonry, and capable of being lifted bodily off the ground by the application of sufficient mechanical power, is a building within the above statute, and a contract to erect such a structure within the limits of the Act is illegal: *Stevens v. Gourley*, 1 L. T. (N.S.) 33; 7 C. B. (N.S.) 99; 29 L. J. C. P. 1; 6 Jur. (N.S.) 147; 8 W. R. 85.

2. Every wall constructed of brick, stone, or other similar substances shall be properly bonded and solidly put together with mortar or cement, and no part of such wall shall overhang any part underneath it, and all return walls shall be properly bonded together. Construction of walls of brick, stone, &c.

3. The thickness of every stone wall in which the beds of the masonry are laid horizontally shall be one third greater than the thickness prescribed for stone walls in the rules hereinafter contained. Extra thickness of certain stone walls.

4. The thickness of every wall as hereinafter determined shall be the minimum thickness. Thickness of walls.

5. The height of every topmost storey shall be measured from the level of its floor up to the under side of the tie of the roof, or up to half the vertical height of the rafters, when the roof has no tie; and the height of every other storey shall be the Height of storey

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(a) The rules in 45 Vict. c. 14 s. 14, *post*, as to open spaces to dwellings are to be in addition to and shall form part of the rules in this Act, which is to be construed accordingly.



Sched. 1. clear height of such storey exclusive of the thickness of the floor.

Height of  
external and  
party-walls.

6. The height of every external and party wall shall be measured from the base of the wall to the level of the top of the topmost storey.

Length of walls.

7. Walls are deemed to be divided into distinct lengths by return walls, and the length of every wall is measured from the centre of one return wall to the centre of another; provided that such return walls are external, party, or cross walls of the thickness hereinafter required, and bonded into the walls so deemed to be divided.

Footings of  
walls

8. The projection of the bottom of the footing of every wall, on each side of the wall, shall be at least equal to one half of the thickness of the wall at its base; and the diminution of the footing of every wall shall be formed in regular offsets, and the height from the bottom of such footing to the base of the wall shall be at the least equal to one half of the thickness of the wall at its base.

*Note.*—A district surveyor required the builder of a new church to make the footings double the width of the proposed walls, according to No. 8 of the preliminary rules in schedule 1, and for omitting to do so laid an information against him, and a magistrate made an order under sect. 46 requiring the builder to comply with the requisition. *Held*, that the order was bad, as a church was a public building, and exempted by sect. 30 from the operation of the rules of construction in schedule 1: *Reg. v. Carruthers*, 9 L. T. (N.S.) 825; 33 L. J. M. C. 107; 10 Jur. (N.S.) 767; 12 W. R. 372; 4 B. & S. 801.

## PART I.

### *Rules for the Walls of Dwelling Houses.*

Thickness of  
walls of dwell-  
ing houses.

1. The external and party walls of dwelling houses shall be made throughout the different storeys of the thickness shown in the following table, arranged according to the heights and lengths of the walls, and calculated for walls up to one hundred



feet in height, and supposed to be built of bricks not less than eight and a half inches and not more than nine and a half inches in length, the heights of the storeys being subject to the condition hereafter given.

2. Table.

I.	II.	III.	IV.
Height up to 100 feet.	Length up to 45 feet. Two storeys, $21\frac{1}{2}$ inches. Three storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length up to 80 feet. Two storeys, 26 inches. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length unlimited. One storey, 30 inches. Two storeys, 26 inches. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.
Height up to 90 feet.	Length up to 45 feet. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length up to 70 feet. One storey, 26 inches. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length unlimited. One storey, 30 inches. Two storeys, 26 inches. One storey, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.
Height up to 80 feet.	Length up to 40 feet. One storey, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length up to 60 feet. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length unlimited. One storey, 26 inches. Two storeys, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.
Height up to 70 feet.	Length up to 40 feet. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length up to 55 feet. One storey, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length unlimited. One storey, 26 inches. Two storeys, $21\frac{1}{2}$ inches. One storey, $17\frac{1}{2}$ inches. Remainder, 13 inches.
Height up to 60 feet.	Length up to 30 feet. One storey, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length up to 50 feet. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.	Length unlimited. One storey, $21\frac{1}{2}$ inches. Two storeys, $17\frac{1}{2}$ inches. Remainder, 13 inches.
Height up to 50 feet.	Length up to 30 feet. Wall below the topmost storey, 13 inches. Topmost storey, $8\frac{1}{2}$ in. Remainder, $8\frac{1}{2}$ inches.	Length up to 45 feet. One storey, $17\frac{1}{2}$ inches. Rest of wall below top- most storey, 13 inches. Topmost storey, $8\frac{1}{2}$ in. Remainder, $8\frac{1}{2}$ inches.	Length unlimited. One storey, $21\frac{1}{2}$ inches. One storey, $17\frac{1}{2}$ inches. Remainder 13 inches.



I.	II.	III.
Height up to 40 feet.	Length up to 35 feet. Wall below two topmost storeys, 13 inches. Two topmost storeys, 8½ inches. Remainder, 8½ inches.	Length unlimited. One storey, 17½ inches. Rest of wall below topmost storey, 13 inches. Topmost storey, 8½ inches. Remainder, 8½ inches.
Height up to 30 feet.	Length up to 35 feet. Wall below two topmost storeys, 13 inches. Two topmost storeys, 8½ inches. Remainder, 8½ inches.	Length unlimited. Wall below topmost storey, 13 inches. Topmost storey, 8½ inches. Remainder, 8½ inches.
Height up to 25 feet.	Length up to 30 feet. From base to top of wall, 8½ inches.	Length unlimited. Wall below topmost storey, 13 inches. Topmost storey, 8½ inches. Remainder, 8½ inches.

Explanation of tables.

3. In using the above table the height of the wall is to be reckoned on the first vertical column on the left hand of the table, and the length of the wall on the corresponding horizontal column. The thickness of the wall in each storey is given in inches, and begins with the wall from the base upwards.

Qualification in case of certain walls.

4. If any external or party wall, measured from centre to centre, is not more than twenty-five feet distant from any other external or party wall to which it is tied by the beams of any floor or floors, other than the ground floor, or the floor of any storey formed in the roof, the length of such wall is not to be taken into consideration, and the thickness of the wall will be found in the second vertical column in the above table.

Condition in respect of storeys exceeding a certain height.

5. If any storey exceeds in height sixteen times the thickness prescribed for the walls of such storey in the above table, the thickness of each external and party wall throughout such storey shall be increased to one-sixteenth part of the height of the storey; but any such additional thickness may be confined to piers properly distributed, of which the collective widths amount to one-fourth part of the length of the wall.

Restriction in case of certain storeys.

6. No storey enclosed with walls less than thirteen inches in thickness shall be more than ten feet in height.



7. The thickness of any wall of a dwelling house, if built of materials other than such bricks as aforesaid, shall be deemed to be sufficient if made of the thickness required by the above tables, or of such less thickness as may be approved by the Metropolitan Board, with this exception, that in the case of walls built of stone in which the beds of the masonry are not laid horizontally no diminution shall be allowed in the thickness required by the foregoing rules for such last-mentioned walls.

Sched. 1.

Thickness of walls built of materials other than such bricks as aforesaid.

8. All buildings, excepting public buildings, and such buildings as are hereinafter defined to be buildings of the warehouse class, shall, as respects the thickness of their walls, be subject to the rules given for dwelling houses.

Rule as to buildings not being public buildings or buildings of the warehouse class.

*Note.*—With reference to the height of buildings in new streets it is enacted by 25 & 26 Vict. c. 102, s. 85, as follows:—

No building except a church or chapel shall be erected on the side of any new street of a less width than fifty feet, which shall exceed in height the distance from the external wall or front of such building to the opposite side of such street, without the consent in writing of the Metropolitan Board of Works; nor shall the height of any building so erected be at any time subsequently increased so as to exceed such distance without such consent; and in determining the height of such building the measurement shall be taken from the level of the centre of the street immediately opposite the building up to the parapet or eaves of such building; and every person committing any offence under this enactment shall be liable to a penalty of 5*l.*, and in case of a continuing offence to a further penalty of 40*s.* for every day during which such offence shall continue after notice from the said board, to be recovered by summary proceeding.

Height of buildings in certain streets.



## Sched. I.

## PART II.

*Rules for the walls of Buildings of the Warehouse Class (a).*

Definition of  
warehouse  
class.

Thickness at  
base.

1. The warehouse class shall comprise all warehouses, manufactories, breweries, and distilleries.

2. The external and party walls of buildings of the warehouse class shall at the base be made of the thickness shown in the following table, calculated for walls up to one hundred feet in height, and supposed to be built of bricks not less than eight and a half inches and no more than nine and a half inches in length.

## 3. Table.

I.	II.	III.	IV.
Height up to 100 feet.	Length up to 55 feet. Base, 26 inches.	Length up to 70 feet. Base, 30 inches.	Length unlimited. Base, 34 inches.
Height up to 90 feet.	Length up to 60 feet. Base, 26 inches.	Length up to 70 feet. Base, 30 inches.	Length unlimited. Base, 34 inches.
Height up to 80 feet.	Length up to 45 feet. Base, 21½ inches.	Length up to 60 feet. Base, 26 inches.	Length unlimited. Base, 30 inches.
Height up to 70 feet.	Length up to 30 feet. Base, 17½ inches.	Length up to 45 feet. Base, 21½ inches.	Length unlimited. Base, 26 inches.
Height up to 60 feet.	Length up to 35 feet. Base, 17½ inches.	Length up to 50 feet. Base, 21½ inches.	Length unlimited. Base, 26 inches.
Height up to 50 feet.	Length up to 40 feet. Base, 17½ inches.	Length up to 70 feet. Base, 21½ inches.	Length unlimited. Base, 26 inches.
Height up to 40 feet.	Length up to 30 feet. Base, 13 inches.	Length up to 60 feet. Base, 17½ inches.	Length unlimited. Base, 21½ inches.
Height up to 30 feet.	Length up to 45 feet. Base, 13 inches.	Length unlimited. Base, 17½ inches.	
Height up to 25 feet.	Length unlimited. Base, 13 inches.		

(a) By 23 & 24 Vict. c. 52, s. 2, *post*, p. 97, these rules are not to apply to any



4. The above table is to be used in the same manner as the table previously given for the walls of dwelling-houses, and is subject to the same qualifications and conditions respecting walls not more than twenty-five feet distant from each other.

Sched. 1.

Explanation of table.

5. The thickness of the walls of buildings of the warehouse class at the top, and for sixteen feet below the top, shall be thirteen inches; and the intermediate parts of the wall between the base and such sixteen feet below the top shall be built solid throughout the space between straight lines drawn on each side of the wall, and joining the thickness at the base to the thickness at sixteen feet below the top, as above determined; nevertheless in walls not exceeding thirty feet in height the walls of the topmost storey may be eight inches and a half thick.

Thickness at top of walls and through intermediate space.

6. If in any storey of a building of the warehouse class the thickness of the wall, as determined by the rules hereinbefore given, is less than one fourteenth-part of the height of such storey, the thickness of the wall shall be increased to one fourteenth-part of the height of the storey; but any such additional thickness may be confined to piers properly distributed, of which the collective widths amount to one fourth-part of the length of the wall.

Condition in respect of storeys exceeding a certain height.

7. The thickness of any wall of a building of the warehouse class, if built of materials other than such bricks as aforesaid, shall be deemed to be sufficient if made of the thickness required by the above tables, or of such less thickness as may be approved by the Metropolitan Board, with this exception, that in the case of walls built of stone in which the beds of the masonry are not laid horizontally no diminution shall be allowed in the thickness required by the foregoing rules for such last-mentioned walls.

Thickness of walls built of materials other than such bricks aforesaid.

### MISCELLANEOUS.

1. The thickness of a cross wall shall be two-thirds of the thickness hereinbefore required for an external or party wall of the same dimensions, and belonging to the same class of buildings, but never less than eight and a half inches, and no wall subdividing any building shall be deemed to be a cross wall unless it is carried up to two-thirds of the height of the external

Cross walls.

building to be used wholly for the manufacture of the machinery and boilers of steam vessels, beyond three miles from St. Paul's, subject to the provisions contained therein.



**Sched. 1.** or party walls, and unless the recesses and openings therein do not exceed one-half of the vertical surface of the wall in each storey.

Extra thickness  
of certain  
stone walls.

2. The thickness of every stone wall in which the beds of the masonry are not laid horizontally shall be one-third greater than the thickness prescribed in the rules aforesaid.

3. Buildings to which the preceding rules are inapplicable require the special sanction of the Metropolitan Board of Works.

**Sched. 2.**

## SECOND SCHEDULE.

### FEEs PAYABLE TO DISTRICT SURVEYORS.

#### PART I.

##### *Fees for New Buildings.*

s. d.

For every building not exceeding four hundred square feet in area, and not more than two storeys in height ...	30	0
For every additional storey ... ..	5	0
For every additional square of 100 feet or fraction of such square ... ..	2	6

But no fee shall exceed ten pounds.

And for every building not exceeding four hundred square feet in area, and of one storey only in height, the fees shall be ... ..	15	0
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##### *Fees for Additions or Alterations.*

For every addition or alteration made to any building after the roof thereof has been covered in, the fee ] shall be half of the fee charged in the case of a new building.		
For inspecting the arches or stone floors over or under public ways (a) ... ..	10	0
For inspecting the formation of openings in party walls	10	0

#### PART II.

For inspecting dangerous structures, by direction of the Commissioners of Police or Sewers ... ..	20	0
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*N.B.*—In this schedule “area” shall include the area of any attached building.

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(a) The district surveyor is entitled to a fee of 10s. in respect of each distinct building to which the arches inspected by him belong: *Power v. Wigmore*, L.R. 7 C. P. 386; 27 L. T. (N.S.) 148.



# THE METROPOLITAN BUILDING ACT (AMENDMENT), 1860.

23 & 24 VICT. CAP. 52.

*An Act to alter and amend "The Metropolitan Building Act (1855)." [23rd July, 1860.]*

WHEREAS certain rules of "The Metropolitan Building Act, 1855," have been found to operate prejudicially by limiting the contents of buildings to be erected as workshops for the manufacture of the machinery and the boilers of steam vessels, and as the increased and increasing size of such machinery and boilers for the royal and commercial marine of this country requires larger areas for their manufacture than are allowed by such rule, it is expedient to amend the said Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :—

I. This Act may be cited for all purposes as "The Short title.  
Metropolitan Building Act (Amendment), 1860."

II. The rules of "The Metropolitan Building Act, 1855," limiting the cubical dimensions or contents of buildings used either wholly or in part for the purposes of trade or manufacture, shall not after the passing of this Act apply to any building to be used wholly for the manufacture of the machinery and boilers of steam vessels beyond the distance of three miles from Saint Rules as to cubical dimensions of the Metropolitan Building Act, 1855, not to apply to buildings to be used for the manufacture of machinery and boilers of steam vessels, provided



Section 2. Paul's Cathedral: Provided always, that every such building shall consist of one floor only, and shall be constructed of brick, stone, iron (*a*), or other incombustible material; and it shall not be lawful for the owners, lessees, or occupiers thereof, or for any persons interested therein, to use such building for any other purpose than the manufacture of the machinery and the boilers of steam vessels until all the rules and provisions of the said Act, as to party walls and other matters which are applicable to buildings of a similar character, shall have been duly complied with: Provided also, that every such building, if of greater dimensions than two hundred and sixteen thousand cubic feet, shall be subject to the approval of the Metropolitan Board of Works, in the same manner as iron buildings or buildings to which the rules of the said Act are inapplicable as set forth in the fifty-sixth section of such Act (*b*).

*contd.*  
that such buildings shall consist of one floor only, &c.

(*a*) See also 45 Vict. c. 14, s. 12, *post*, for the powers of the Metropolitan Board of Works with regard to the erection of iron or other buildings of a temporary character.

(*b*) Rules limiting the areas of buildings will be found in sections 27 & 28 of the Metropolitan Building Act, 1855, *ante*, pp. 27, 28.

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THE METROPOLITAN BUILDING ACT, 1869.

32 & 33 VICT. CAP. 82.

*An Act to amend the Metropolitan Building Act, 1855.*

[9th August, 1869.]

WHEREAS by the Metropolitan Building Act, 1855, <sup>18 & 19 Vict. c. 122.</sup>  
various powers for the regulation and supervision of  
buildings in the metropolis are given to the Metro-  
politan Board of Works :

And whereas by Part Two of the same Act certain  
powers over dangerous structures are given to the  
commissioners of police of the metropolis, and it is  
expedient to transfer those powers to the Metropolitan  
Board of Works :

Be it enacted by the Queen's most Excellent  
Majesty, by and with the advice and consent of the  
Lords spiritual and temporal, and Commons, in this  
present parliament assembled, and by the authority of  
the same, as follows :

1. This Act may be cited as the Metropolitan Build- Short title.  
ing Act, 1869.

2. This Act shall be construed as one with the Act to be  
Metropolitan Building Act, 1855, and the Acts amend- construed with  
ing the same. <sup>18 & 19 Vict. c. 122.</sup>

3. This Act shall come into operation on the first Commencement  
day of October, one thousand eight hundred and sixty- of Act.  
nine, which date is in this Act referred to as the  
commencement of this Act.



## Section 4.

Transfer of  
powers over  
dangerous  
structures to  
the Metro-  
politan Board of  
Works.

4. The powers given by Part Two of the Metropolitan Building Act, 1855 (*a*), to the commissioners of police of the metropolis with respect to the survey of and securing and notice respecting structures in a dangerous state, and to taking down, securing, or repairing such structures, and to the recovery of the expenses thereof, and to the appointment of persons and making of regulations for carrying into execution Part Two of the said Act relating to such structures, shall, on the commencement of this Act, be transferred to and vest in, and may thereafter be exercised by, the Metropolitan Board of Works; and the expression "the commissioners" throughout the said part (so far as regards structures situate within the limits of the said Act, and not within the city of London) shall mean the Metropolitan Board of Works.

(*a*) See sects. 69—81, of the Metropolitan Building Act, 1855, *ante*, pp. 47-55.

Expenses of  
Metropolitan  
Board of Works.

5. All payments directed by Part Two of the Metropolitan Building Act, 1855, as amended by this Act, to be made by the Metropolitan Board of Works in respect of any structure situate within the limits of that Act, and not within the city of London, and all expenses incurred by the said board in carrying into execution Part Two of the said Act, shall be deemed to be part of their expenses in carrying into execution the said Act, and shall be raised and paid accordingly.

All payments directed by Part Two of the said Act as amended by this Act to be made to the Metropolitan Board of Works, shall be made in the same manner in which payments are made to the Board in the ordinary course of their business.

With regard to the expenses of carrying the Metropolitan Building Act, 1855, into operation, see sects. 68 and 73 to 81 of



that Act, *ante*. Rules regulating the recovery of expenses from the owners of premises will be found in sect. 97 of the Act. The Metropolis Management and Buildings Acts (Amendment) Act, 1882, sect. 18, *post*, contains further provisions for securing to the Board payment of expenses incurred in respect of dangerous structures.

Section 5.  
*Note con.*

6. So much of the Metropolitan Building Act, 1855, as is set out in the third column of the schedule to this Act is hereby repealed.

Part of 18 & 19  
Vict. c. 122,  
repealed.

### SCHEDULE.

Date.	Title.	Part repealed.
18 & 19 Vict. c. 122.	An Act to amend the laws relating to the construction of buildings in the metropolis and its neighbourhood.	<p>The following words in sect. 70: "hut " when such structure is situate else- " where, it shall mean 'the commis- " sioners of police of the metropolis,' " or such one of them as may be " authorized by one of Her Majesty's " Principal Secretaries of State to act " in the matter of this Act "</p> <p>The following words in sect. 75: " and " in the cases of payments in respect of " any structure situate elsewhere within " the limits of this Act be made by " or to the receiver of metropolitan " police."</p> <p>The following words in sect. 81: " sub- " ject to the approval of one of Her " Majesty's Principal Secretaries of " State;" and the following words in the same section: " and all expenses " incurred by them not hereby other- " wise provided for shall, in the case of " expenses incurred by the said com- " missioners of police, be deemed to be " expenses incurred by them in respect " of the police force of which they are " commissioners, and be payable accord- " ingly."</p>



THE METROPOLIS MANAGEMENT AND BUILD-  
ING ACTS (AMENDMENT ACT), 1878.

41 & 42 VICT. CAP. 32.

*An Act to amend the Metropolis Management Act, 1855,  
the Metropolitan Building Act, 1855, and the Acts  
amending the same respectively.*

[22nd July, 1878.]

WHEREAS the provisions of the several Acts now in force within the metropolis are insufficient for duly regulating the erection and extension of houses and buildings in close proximity to certain roads, passages, and ways, and it is expedient that for such purpose further and better provision should be made :

And whereas with a view to protect the public frequenting theatres and music halls within the metropolis from danger from fire it is expedient that provisions such as are in this Act contained should be made for empowering the Metropolitan Board of Works (in this Act referred to as "the Board") to cause alterations in existing theatres and music halls to be made in certain cases, and to make regulations with respect to the position and structure of new theatres and certain new music halls :

And whereas it is expedient to make provisions with respect to the making, filling up, and preparation of the foundations and sites of houses and buildings to be erected within the metropolis, and with respect to the quality of the substances to be used in the formation or construction of the sites, foundations, and walls of such houses and buildings with a view to the stability



of the same, the prevention of fires, and for purposes of health : Section 1.

And whereas it is expedient to make further and better provisions with respect to the payment of expenses incurred by the Board in relation to dangerous structures :

And whereas for the purposes aforesaid it is expedient to amend the Metropolis Management Act, 1855, the Metropolitan Building Act, 1855, and the Acts amending the same respectively : 18 & 19 Vict.  
c. 120.  
18 & 19 Vict  
c. 122.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; that is to say—

### Preliminary.

1. This Act may be cited for all purposes as the Short title.  
Metropolis Management and Building Acts Amendment  
Act, 1878.

2. This Act shall extent and apply to the Metropolis Limits of Act.  
18 & 19 Vict.  
c. 120.  
as defined by the Metropolis Management Act, 1855.  
*See ante*, p. 5.

3. This Act shall consist of three parts. Division of Act  
into three parts.

### PART I.

4. In this part of this Act— Interpretation.

The term “roadway” in relation to any road, passage, or way shall mean the whole space open for traffic, whether carriage traffic and foot traffic or foot traffic only :



**Section 4.**  
*contd.*

"Centre of the roadway."

The term "centre of the roadway" in relation to any road, passage, or way existing at the time of the passing of this Act or thereafter formed shall mean the centre of the roadway of such road, passage, or way as existing immediately before the time when first after the passing of this Act or the formation of the same any house or building fronting towards or abutting upon such road, passage, or way was begun to be constructed or extended:

"The prescribed distance."

The term "the prescribed distance" shall mean twenty feet from the centre of the roadway where such roadway is used for the purpose of earriage traffic, and ten feet from the centre of the roadway where such roadway is used for the purposes of foot traffic only.

Metropolis Management Acts and this part of Act to be construed as one Act.  
18 & 19 V<sup>ict</sup>. c. 120.  
57 G. 3 c. xxix.

5. The Metropolis Management Act, 1855, and the Acts amending the same, and this part of this Act shall be construed together as one Act: Provided always, that nothing in this Act shall be held to limit or restrict the powers now vested in the Commissioners of Sewers of the city of London, or in any body or person elsewhere within the metropolis, by an Act passed in the session of parliament held in the fifty-seventh year of the reign of King George the Third, intituled, "An Act for better paving, improving, and regulating the streets of the metropolis and removing and preventing nuisances and obstructions therein."

As to erection of houses or buildings at less than prescribed distance

6. From and after the passing of this Act no house or building begun to be constructed after the passing of this Act shall be constructed or begun to be con-



structed, and no house or building shall be extended or begun to be extended, in such manner that the external wall or front of any such house or building, or, if there be a forecourt or other space left in front of any such house or building, the external fence or boundary of such forecourt or other space, shall be at a distance less than the prescribed distance from the centre of the roadway of any road, passage, or way whether a thoroughfare or not, being a highway, without the consent in writing of the board: Provided always, that the board may, in any case where they think it expedient, consent to the construction, formation, or extension of any house, building, forecourt, or space at a distance less than the prescribed distance from the centre of the roadway of any such road, passage, or way, and at such distance from the centre of such roadway, and subject to such conditions and terms (if any) as they may think proper to sanction.

## Section 6.

*contd.*

from centre of  
roads, passages,  
or ways being  
highways

In every case where any such house, building, forecourt, or space is constructed, formed, or extended, or is begun to be constructed, formed, or extended, in contravention of the provisions of this section, at a distance from the centre of the roadway of any such road, passage, or way as aforesaid less than the prescribed distance, or than such other distance as may have been sanctioned by the Board, or contrary to the conditions and terms (if any) subject to which such sanction was obtained, the Board may serve a notice upon the owner or occupier of the said house, building, forecourt, or space, or upon the builder or person engaged in constructing, forming, or extending the same, requiring him to comply with the provisions of this section, and to cause such house, building, fore-



**Section 6.** *contd.*  
 court, or space, or any part thereof, to be set back so that the external wall of such house or building, or the external fence or boundary of such forecourt or space, shall be at a distance not less than the prescribed distance from the centre of the roadway of such road, passage, or way as aforesaid, or at such distance and according to such conditions and terms (if any) as the board may have sanctioned.

Provided always, that the preceding provisions of this section shall not affect the construction or extension of any house or building within the limits of any area which may have been lawfully occupied by any house or building at any time within two years before the passing of this Act, or the construction or extension of any house or building lawfully in course of construction or extension at the time of the passing of this Act ; and provided also, that the construction or extension of any house or building in or abutting upon any street existing, formed, or laid out for building at the time of the passing of this Act may be begun and completed in like manner in every respect as if the preceding provisions of this section had not been made.

This clause was added in Committee on the Bill.

As to erection of houses or buildings at less than prescribed distance from centre of roads, passages, or ways not being highways.

**7.** Where after the passing of this Act any house or building begun to be constructed after the passing of this Act is constructed or is begun to be constructed, or any house or building is extended or begun to be extended, in such manner that the external wall or front of any such house or building, or, if there be a forecourt or other space left in the front of any such house or building, the external fence or boundary of such forecourt or space, is at a distance from the centre of the roadway of any road, passage, or way (not being



a highway) less than the prescribed distance or less than such other distance as may have been sanctioned by the board as hereinafter provided, or where, in relation to any such house, building, or forecourt, or space constructed, formed, or extended at such less distance than the prescribed distance with the sanction of the board as aforesaid, the conditions or terms, if any, subject to which such sanction was obtained have not been complied with, or the time during which such sanction was limited to continue has expired, then and in every such case, where it is intended that such road, passage, or way shall become a highway, a written notice to that effect shall be served upon the board, and thereupon the board may at any time within two months (a) after the receipt of such notice serve a notice upon the owner or occupier of such house, building, forecourt, or space, or the builder or person engaged in constructing, forming, or extending the same, requiring him to cause the same, or any part thereof, to be set back so that the external wall or front of such house or building, or the external fence or boundary of such forecourt or space, shall be at a distance not less than the prescribed distance from the centre of the roadway of such road, passage, or way, or at such distance and according to such conditions and terms (if any) as the Board may have sanctioned; and unless and until such first mentioned notice has been given to the Board and such last mentioned notice (if any) has been complied with, such road, passage, or way shall not become a highway.

(a) *i.e.* calendar months, 13 & 14 Vict. c. 21, s. 4.

The Board may consent to the construction, formation, or extension of any house, building, forecourt, or



Section 7. contd. space at any lesser distance than the prescribed distance from the centre of the roadway of any such road, passage, or way (not being a highway) as aforesaid, to be specified in such consent, or to the continuance of any house, building, forecourt, or space constructed, formed, or extended at such lesser distance, or to the continuance thereof for a limited time only, to be specified in such consent, in such cases and subject to such terms and conditions (if any) as they may think proper.

Provided always, that the preceding provisions of this section shall not affect the construction or extension of any house or building within the limits of any area which may have been lawfully occupied by any house or building at any time within two years before the passing of this Act, or the construction or extension of any house or building lawfully in course of construction or extension at the time of the passing of this Act.

With regard to this section and section 4, *ante*, p. 104, see the Metropolitan Board of Works bye-law as to the formation of new streets in the metropolis, *post*, Appendix.

With a view to obviate frequent complaints of insecure and leaky vaults, in many instances caused by defective construction, the vestry of the parish of St. Mary Abbots, Kensington, have framed the following suggestions for the guidance of builders, and recommend that the same be observed in building vaults under footways within the parish, whether in new streets or otherwise:—(a) The front or head wall of vault to be built in 14-inch brickwork in cement. (b) The external face of brickwork not to project within two feet of the outer line of kerb. (c) The space between excavated ground and brickwork of front wall of vault to be filled in with concrete. (d) The crown of vault to be six inches below the under side of pavement, and the spandrels of arches to be filled in with concrete, so as to present a level bedding of concrete to follow the fall of the pavement. (e) The coal-plate stones to be of 3-inch York paving, bedded solidly on concrete, and the coal-plate holes to be lined with iron rebated coal-plate rings.

It may be observed that new streets can be dedicated to the



public as highways subject to existing coal holes or cellar openings in them communicating with vaults under the pavement; but though vestries and district boards are empowered to give consent to vaults being made under the pavement in ancient streets, the soil of such streets by presumption of law belonging to the adjoining owners, it seems to be doubtful whether the making of coal holes or cellar openings in such pavements can be legally justified, especially when, as they very often do, they cause danger to the public using the streets.

**Section 7.**  
*Note con.*

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8. In case any owner, occupier, builder, or person during twenty-eight days after the service of any notice under the preceding provisions of this part of this Act neglects or refuses to comply with the requirements of such notice, or after the expiration of such period fails to carry out or complete the works necessary for such compliance with all reasonable despatch, the board may cause complaint thereof to be made before a justice of the peace, who shall thereupon issue a summons, requiring such owner, occupier, builder, or person to appear at a time and place to be stated in the summons to answer such complaint, and if at the time and place appointed in such summons the said complaint is proved to the satisfaction of the justice before whom the same is heard, such justice shall make an order in writing on such owner, occupier, builder, or person directing him to comply with the requirements of such notice within such time as such justice may consider reasonable, and such justice shall also make an order for the payment of the costs incurred up to the time of hearing, and of hearing; and in case such owner, occupier, builder, or person makes default in complying with the requirements of such notice within the time limited by such order, he shall be liable to a penalty of not less than forty shillings and not more than five pounds, and to a further penalty of not less than ten shillings and not more than forty shillings for

Proceedings in  
case of default  
in compliance  
with require-  
ments of notice.



Section 8. each day during which such default continues after the first day after the expiration of the time limited by such order for compliance with the requirements of such notice: Provided always, that this section shall not apply to any non-compliance with the notice of the board in the case of an intended highway where the same shall not be opened as a highway.

*contd.*

As to the recovery of penalties, see section 23, *post*.

Streets, roads, &c., formed for foot traffic not to be used without consent of board for carriage traffic unless widened.

9. No street, road, passage, or way (being a highway) formed or laid out for foot traffic only after the passing of this Act shall, except with the consent of the board, be used for the purposes of carriage traffic, unless the space open for foot traffic and carriage traffic be of the full width of forty feet where there are houses or buildings on each side thereof, or, where there are houses or buildings only on one side thereof, unless there be a distance of not less than twenty feet from the centre of the space open for foot traffic and carriage traffic and the external walls or fronts of such houses or buildings, or, if there be forecourts or other spaces left in front of such houses or buildings, the external fences or boundaries of such forecourts or other spaces; and in case any person alters any such street, road, passage, or way, so that it may be used for any traffic other than foot traffic, contrary to the provisions of this section, or takes up or removes any post, bar, rail, flagstone, or knowingly does any act, matter, or thing to facilitate the use of the same for traffic other than foot traffic, contrary to the provisions of this section, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalties under this part of the Act are recoverable by summary proceedings in like manner as penalties under the Metropolis Management Acts. See sect. 23, *post*.



10. No street, road, passage, or way (being a highway) formed or laid out for foot traffic only before the passing of this Act shall be used for the purposes of carriage traffic for any longer period than seven consecutive days without the consent of a justice, unless the space open for foot traffic and carriage traffic be of the full width of forty feet where there are houses or buildings on each side thereof, or, where there are houses or buildings only on one side thereof, unless there be a distance of not less than twenty feet from the centre of the space open for foot traffic and carriage traffic and the external walls or fronts of such houses or buildings, or, if there be forecourts or other spaces left in front of such houses or buildings, the external fences or boundaries of such forecourts or other spaces, and any justice may grant such consent as aforesaid, or may do so subject to such terms and conditions as he may think fit; provided that twenty-eight days previous notice of any such application to a justice shall be served upon the Board, and the Board may appear at the time and place fixed for hearing such application and be heard thereon. In case any person alters any such street, road, passage, or way, so that it may be used for any traffic other than foot traffic, contrary to the provisions of this section, or to any conditions imposed by any such justice as aforesaid, or takes up or removes any post, bar, rail, flagstone, or knowingly does any act, matter, or thing to facilitate the use of the same for traffic other than foot traffic, contrary to the provisions of this section, he shall for every such offence be liable to a penalty not exceeding £20.

**Section 10.**

Streets, roads, &c., formed for foot traffic before passing of Act not to be used without consent of justice for carriage traffic unless widened.

Penalties under this part of the Act are recoverable by summary proceedings in like manner as penalties under the Metropolis Management Acts. See sect. 23, *post*.



**Section 11.**

Power to board  
in certain cases  
to require  
proprietors  
of theatres and  
certain music  
halls in use at  
the time of the  
passing of this  
Act to remedy  
structural  
defects.

11. Whenever it appears to the board that any house or other place of public resort within the metropolis which was at the time of the passing of this Act authorized to be kept open for the public performance of stage plays, and which is kept open for such purpose, under the authority of letters patent from Her Majesty, her heirs and successors or predecessors, or of a license granted by the Lord Chamberlain of Her Majesty's Household for the time being or by justices of the peace, or that any house, room, or other place of public resort within the metropolis, containing a superficial area for the accommodation of the public of not less than five hundred square feet, which was at the time of the passing of this Act authorized to be kept open, and which is kept open, for dancing, music, or other public entertainment of the like kind, under the authority of a license granted by any court of quarter sessions, is so defective in its structure, that special danger from fire may result to the public frequenting the same, then and in every such case the board may, with the consent of the Lord Chamberlain in the case of theatres under his jurisdiction, and of Her Majesty's Principal Secretary of State, in all other cases, if in the opinion of the board such structural defects can be remedied at a moderate expenditure, by notice in writing require the owner of such house, room, or other place kept open for any of the purposes aforesaid, under such authority as aforesaid, to make such alterations therein or thereto as may be necessary to remedy such defects, within a reasonable time to be specified in such notice; and in case such owner fails to comply with the requirements of such notice within such reasonable time as aforesaid, he shall be liable to a penalty not exceeding fifty pounds for such default, and to a further penalty of



five pounds for every day after the first day after the expiration of such reasonable time as aforesaid during which such default continues : Provided always, that any such owner may, within fourteen days after the receipt of any such notice as aforesaid, serve notice of appeal against the same upon the board, and thereupon such appeal shall be referred to an arbitrator to be appointed by Her Majesty's First Commissioner of Works at the request of either party, who shall hear and determine the same, and may, on such evidence as he may think satisfactory, either confirm the notice served by the board, or may confirm the same with such modifications as he may think proper, or refuse to confirm the same, and the decision of such arbitrator with respect to the requirements contained in any such notice, and the reasonableness of the same, and the persons by whom and the proportions in which the costs of such arbitration are to be paid, shall be final and conclusive and binding upon all parties.

In case of an appeal against any such notice, compliance with the requirements of the same may be postponed until after the day upon which such appeal shall be so decided as aforesaid, and the same, if confirmed in whole or in part, shall only take effect as and from such day.

Theatres, &c., are included in the term "public buildings," see 18 & 19 Vict. c. 122, s. 3, *ante*; and the construction of public buildings is regulated by sections 22 and 30 of that Act.

12. The board may from time to time make, alter, vary, and amend such regulations as they may think expedient with respect to the requirements for the protection from fire of houses or other places of public resort within the metropolis to be kept open for the

Power to board to make regulations with respect to new theatres and certain new music halls for protection from fire.



Section 12.  
*contd.*  
—

public performance of stage plays, and of houses, rooms, or other places of public resort within the metropolis containing a superficial area for the accommodation of the public of not less than five hundred square feet, to be kept open for public dancing, music, or other public entertainment of the like kind, under the authority of letters patent from Her Majesty, her heirs or successors, or of licenses by the Lord Chamberlain of Her Majesty's Household, or by any justices of the peace, or by any court of quarter sessions, which may be granted for the first time after the passing of this Act; and may by such regulations prescribe the requirements as to position and structure of such houses, rooms, or places of public resort which may, in the opinion of the board, be necessary for the protection of all persons who may frequent the same against dangers from fires which may arise therein or in the neighbourhood thereof; provided that the board may from time to time in any special case dispense with or modify such regulations, or may annex thereto conditions if they think it necessary or expedient so to do.

The board shall, after the making, altering, varying or amending of any such regulations, cause the same to be printed, with the date thereof, and a printed copy thereof shall be kept at the office of the board, and all persons may at all reasonable times inspect such copy without payment, and the board shall cause to be delivered a printed copy, authenticated by their seal, of all regulations for the time being in force to every person applying for the same, on payment by such person of any sum not exceeding five shillings for every such copy.

A printed copy of such regulations, dated and authenticated by the seal of the board, shall be con-



clusive evidence of the existence and of the due making of the same in all proceedings under the same, without adducing proof of such seal or of the fact of such making.

Section 12.  
contd.

From and after the making of any such regulations it shall not be lawful for any person to have or keep open any such house, room, or other place of public resort for any of the purposes aforesaid, unless and until the board grant to such person a certificate in writing under their seal, to the effect that such house, room, or other place was on its completion in accordance with the regulations made by the board in pursuance of the provisions of this Act for the time being in force, and in so far as the same are applicable to such house or other place, and to the conditions (if any) annexed thereto by the board.

In case any such house, room, or place of public resort is opened or kept open by any person for any of the purposes aforesaid, contrary to the provisions of this enactment, such person shall be liable to a penalty not exceeding fifty pounds for every day on which such house or place of public resort is so kept open as aforesaid.

Before a certificate is granted by the board under this section that a place proposed to be used for music and dancing is in accordance with the regulations made under the Act, the Building Act Committee of the Board to whom such matters are referred require the applicant to submit a notice containing a statement as to the nature of the interest or interests of the person or persons concerned in the premises, accompanied by plans, elevations, and sections of such premises, drawn to a scale of not less than 1 inch to 20 feet, and also a specification of the works, materials, and mode of construction of such building. A detailed statement must also be sent as to the number of persons proposed to be accommodated in the various portions of the building, and of the area to be assigned to each person, which must not be less



**Section 12.** than 1 foot 8 inches by 1 foot 6 inches in the case of a gallery,  
*Note con.* nor less than 2 feet 4 inches by 1 foot 8 inches for any other part  
 — of such building.

See note to sect. 11, *ante*, and sect. 21, *post*, with regard to the inspection of theatres, &c. With regard to the provision of fire plugs and extinguishing fires, see the Metropolitan Fire Brigade Act, 1865, 28 & 29 Vict. c. 90, s. 32, and the Metropolitan Water Act, 34 & 35 Vict. c. 113, s. 34, in the Appendix. Penalties under this part of the Act are recoverable by summary proceedings in like manner as penalties under the Metropolitan Management Acts. See sect. 28, *post*.

With reference to this section see the regulations of the Metropolitan Board of Works of the 2nd May, 1879, in the Appendix, *post*.

Provisional  
 license for new  
 premises.

**13.** A person interested in any premises about to be constructed, or in course of construction, which are designed to be licensed and used within the metropolis for the public performance of stage plays, or for public dancing, music, or other public entertainment of the like kind, may apply to the licensing authority for the grant of a provisional license in respect of such premises. The grant of such provisional license shall, in respect of the discretion of the licensing authority and procedure, be subject to the same conditions as those applicable to the grant of a like license which is not provisional. A provisional license so granted shall not be of any force until it has been confirmed by the licensing authority; but the licensing authority shall confirm the same on the production by the applicant of a certificate by the board that the construction of the premises has been completed in accordance with the regulations and conditions made by the board as hereinbefore provided, and on being satisfied that no objection can be made to the character of the holder of such provisional license.



## PART II. (a).

(a) *The provisions of this part of the Act do not apply to the city of London. See sect. 20, post.*

## Section 14.

14. In this part of this Act—

The term “ foundations ” shall mean the space immediately beneath the footings of a wall :

Interpretation.  
“ Foundations.”

The term “ site ” in relation to a house, building, or other erection shall mean the whole space to be occupied by such house, building, or other erection between the level of the bottom of the foundations and the level of the base of the walls.

“ The base of the wall ” is the course immediately above the footings. See 18 & 19 Viet. c. 22, s. 3, *ante*.

15. The Metropolitan Building Act, 1855, and the Acts amending the same, and this part of this Act, shall be construed together as one Act.

18 & 19 Viet.  
c. 122, &c., and  
this part of  
this Act to  
be construed  
as one Act.

The Acts amending the Metropolitan Building Act, 1855, here referred to, are 23 & 24 Viet. c. 52, and 32 & 33 Viet. c. 82, *post*.

16. The board may from time to time make, alter, vary, amend, and repeal such bye-laws as they may think expedient with respect to the following matters ; (that is to say,)

Power to  
make bye-laws  
with respect to  
sites and  
foundations.

See *post*, p. 118, as to the board dispensing with the observance of any bye-law made under this section, subject to terms and conditions. They cannot “ suspend ” a bye-law.

The bye-laws made under this section, dated 3rd October, 1879, will be found in Appendix, *post*.

(1.) The foundations of houses, buildings, and other erections, and the sites of houses, buildings,



Section 16.  
*contd.*  
 —

and other erections to be constructed after the passing of this Act, and the mode in which and the materials with which such foundations and sites shall be made, formed, excavated, filled up, prepared, and completed for securing stability, the prevention of fires, and for purposes of health :

(2.) The description and quality of the substances of which walls are authorized to be constructed by section twelve of the Metropolitan Building Act, 1855, for securing stability, the prevention of fires, and for purposes of health.

(3.) The duties of district surveyors in relation to such foundations and sites and substances, and for the guidance and control of such district surveyors in the exercise and discharge of such duties :

(4.) The regulation of the amounts of the fees to be paid to such district surveyors in respect of any duties imposed upon them by any such bye-laws or by this Act :

The board may further provide by any bye-law that in any case in which the board think it expedient they may dispense with the observance of any bye-law made under the authority of this part of this Act, subject to such terms and conditions, if any, as they may think proper ; and such terms and conditions may be enforced in like manner in every respect as if the same had been enacted by such bye-law.

The board may, subject as hereinafter mentioned, further provide for the due observance of such bye-



laws by enacting therein such provisions as they think fit as to the deposit of plans and sections of public buildings, and buildings to which section fifty-six of the Metropolitan Building Act, 1855, applies (a), which shall be constructed after the passing of this Act, and as to inspection by the district surveyor or other officer of the board, of houses, buildings, and other erections to be constructed after the passing of this Act, and of the plans and sections relating thereto, and as to the power of the board to cause the removal, alteration, or pulling down of any house, building, or other erection or work done or begun in contravention of any such bye-law, and by imposing such reasonable penalties as they think fit, not exceeding five pounds, for each breach of any such bye-law, and in case of a continuing offence (b) a further penalty not exceeding forty shillings for each day after notice of such offence from the board or district surveyor.

Section 16.  
*contd.*

18 & 19 Vict.  
c. 122, s. 56.

(a) See *ante*, p. 42.

(b) The six months' limitation of time in 11 & 12 Vict. c. 43, s. 11, will not apply to a continuing offence. See *Rumball v. Schmidt*, 46 L. T. (N.S.) 661; 46 J. P. 212.

Any bye-law made in pursuance of this section, and any alteration, variation, and amendment made therein, and any repeal of a bye-law, shall not be of any validity until it has been confirmed by one of Her Majesty's principal Secretaries of State.

A bye-law made under this section shall not, nor shall any alteration, variation, or amendment therein or repeal thereof, be confirmed by one of Her Majesty's principal Secretaries of State until the expiration of two months after a copy of the bye-law, together with notice of the intention to apply for confirmation of the same, has been published by the board, once at least in each



**Section 16.**<sup>1</sup> *contd.*  
 of two consecutive weeks, in two or more newspapers circulating in the metropolis, and copies of such bye-law and notice have been delivered at the office of the Royal Institute of British Architects and of the Institution of Surveyors, and to such other societies and persons as such principal Secretary of State may direct; and any person affected by any such proposed bye-law, or alteration, variation, or amendment in or repeal of any bye-law, may forward notice of his objection to such Secretary of State, who shall take the same into consideration.

All the provisions contained in sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855 (*a*), as to the making, publication, and evidence of bye-laws made by the board under the authority of the said Act, and as to penalties for breach of the same, and the remission of such penalties, shall extend and apply to, the making, publication, and evidence of bye-laws made by the board under the authority of this Act, and to penalties for breach of any such bye-laws, and to the remission of such penalties.

(*a*) See 18 & 19 Vict. c. 120, ss. 202, 203, Appendix (A.), *post*.

Penalties under bye-laws made hereunder are recoverable in like manner as penalties are recoverable under the Metropolitan Building Acts. See sect. 23, *post*.

Provisions as to buildings, &c., not erected on foundations or areas conformable with bye-laws, &c.

**17.** In case any house, building, or other erection begun to be constructed after the passing of this Act is constructed or begun to be constructed upon any foundations or site, or with any substances which have not been made, filled up, and prepared, or which are not in description and quality in accordance with the provisions of the bye-laws relating thereto made under the authority of this Act, or in accordance with the terms and conditions subject to which the board may have



dispensed with the observance of any such provisions (a), the district surveyor may forthwith, by notice to be served on the occupier of such house, building, or other erection, or on the builder, owner, or other person engaged in constructing any such house, building, or other erection as aforesaid, require him to alter, pull down, or remove such house, building, or other erection, or any part thereof, as he may think proper; and in case any such occupier, builder, owner, or other person, during twenty-eight days after the service of such notice, fails to comply with the requirements of such notice, he shall be liable to a penalty of not less than ten shillings and not more than forty shillings for every day from the time of the service of such notice as aforesaid until such house, building, or other erection, or such part thereof, is altered, pulled down, or removed in accordance with the terms of such notice, and every such penalty shall be in addition to any other penalty for breach of any bye-law.

Section 17-  
*contd.*

(a) See sect. 16, *ante*, p. 118, and the authorized form of notice by the district surveyor in the Appendix, *post*.

Provided always, that, notwithstanding the imposition and recovery of any penalty, the board at any time after default in compliance with the requirements of such notice, if they think proper, may cause complaint thereof to be made before a justice of the peace, who shall thereupon issue a summons requiring such occupier, builder, owner, or other person to appear at a time and place to be stated in the summons to answer such complaint, and if at the time and place appointed in such summons the said complaint is proved to the satisfaction of the justice before whom the same is heard, such justice may make an order in writing authorizing the board to enter and alter, pull down, or



**Section 17.***contd.*  

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remove such house, building, or other erection, or any part thereof, and do whatever may be necessary for such purpose, and also to remove the materials of which the same was composed to a convenient place, and (unless the expenses of the board be paid to them within fourteen days) subsequently sell the same as they think proper; and all expenses incurred in respect of such entering and altering, pulling down, or removing any such house, building, or other erection, and in disposing of the said materials, may be deducted by the board out of the proceeds of such sale, and the balance, if any, shall be paid by the board to the person entitled thereto; and in case such materials are not sold by the board, or in case the proceeds of the sale of the same are insufficient to defray the expenses incurred by the board as aforesaid, the board may recover such expenses or such insufficiency from such occupier, builder, owner, or other person, together with all costs and expenses in respect thereof, in like manner as if the same were a penalty imposed by this Act.

Power to  
appeal.

**18.** Any person affected by any notice under the preceding provisions of this part of this Act may, within seven days after the service of the same, appeal to the board.

All such appeals shall stand referred to the Committee of Appeal appointed by the board under and in pursuance of section two hundred and twelve of the Metropolis Management Act, 1855, for hearing appeals (*a*), who may hear and determine the same, and may order the district surveyor, or any other surveyor, to inspect any foundations, site, house, building, or other erection, and may, on such evidence as they think satisfactory, either confirm the notice served by the



district surveyor, or may confirm the same with such modifications as they think proper, or refuse to confirm the same. Section 18.  
*contd.*

In case of an appeal against any such notice, compliance with the requirements of the same may be postponed until after the day upon which such appeal shall be so decided as aforesaid, and the same, if confirmed in whole or in part, shall only take effect as and from such day.

(a) See 18 & 19 Vict. c. 120, s. 212, Appendix (B.), *post*.

The jurisdiction of the High Court of Justice to interfere by injunction is not ousted by this appeal clause: *Tinkler v. Wandsworth Board of Works*, 27 L. J. (N.S.) Ch. 342; 4 Jur. 293; 2 De G. & J. 261; 22 J. P. 224.

**19.** Where under the provisions of the Metropolitan Building Act, 1855, and the Acts amending the same, with respect to dangerous structures, any structure is sold for payment of the expenses incurred in respect thereof by the board in manner prescribed by section seventy-four of the said Act (a), the person to whom the same is sold (hereinafter referred to as "the purchaser"), his agents and servants, may enter upon the land whereon such structure is standing for the purpose of taking down the same and of removing the materials of which the same is constructed; and any person who refuses to admit the purchaser, his agents, or servants, upon such land, or impedes him in removing such materials, shall be liable on conviction to a penalty not exceeding ten pounds, and to a further penalty of five pounds for every day after the first day during which such refusal continues.

Amendment  
of s. 74 of  
18 & 19 Vict.  
c. 122, with  
respect to sale  
of dangerous  
structures.

Where the proceeds of the sale of any such structure under the said seventy-fourth section are insufficient to repay the board the amount of the expenses incurred



Section 19. by them in respect of such structure, no part of the land  
*contd.* whereon such structure stands or stood shall be built  
 upon until after the balance due to the board in respect  
 of such structure shall have been paid to the board.

(a) See *ante*, p. 52.

Part II. of  
 Act not to  
 apply to city of  
 London. 20. Provided always, that the provisions of Part II.  
 of this Act shall not extend or apply to the city of  
 London.

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### PART III.

Power for  
 architect and  
 persons  
 authorized  
 by board,  
 and district  
 surveyor, to  
 enter and  
 inspect theatres,  
 music halls,  
 buildings, and  
 works.

21. The architect of the board, and any other person  
 authorized by the board in writing under their seal,  
 may, at all reasonable times after completion or during  
 construction, enter and inspect any house, room, or  
 other place kept open or intended to be kept open for  
 the public performance of stage plays, or for public  
 dancing, music, or other public entertainment of the  
 like kind affected by any of the provisions of this Act,  
 or of any regulations made in pursuance thereof (a);  
 and the district surveyor of any district may at all  
 reasonable times during the progress and the three  
 months next after the completion of any house, build-  
 ing, erection, or work in such district affected by and  
 not exempted from any of the provisions of this Act,  
 or by any bye-law made in pursuance of this Act,  
 or by any terms or conditions upon which the observ-  
 ance of any such provisions or any of such bye-laws  
 may have been dispensed with, enter and inspect such  
 house, building, erection, or work; and if any person  
 refuses to admit such architect, person, or surveyor, or



to afford him all reasonable assistance in such inspection, in every such case the person so refusing shall incur for each offence a penalty not exceeding twenty pounds (*b*).

Section 21.  
*contd.*

(*a*) The board is given power to make such regulations by sect. 12, *ante*, p. 113.

(*b*) Penalties, under this part of the Act, are recoverable in like manner as penalties under the Metropolis Management Acts. See sect. 23, *post*.

22. For the purpose of complying with the requirements of any notice or order served or made under the provisions of this Act on any owner, builder, or person in respect of any house, building, or other erection, room, or place, such owner, builder, or person, his servants, workmen, and agents, may, after giving seven days notice in writing to the occupier of such house, building, or other erection, room, or place, and on production of such notice or order, enter such house, building, or other erection, room or place, and do all such works, matters, and things therein or thereto, or in connexion therewith, as may be necessary; and if any person refuses to admit such owner, builder, or person, or his servants, or workmen or agents, or to afford them all reasonable assistance, such person shall incur for each offence a penalty not exceeding twenty pounds.

Power to owners, &c., to enter houses, &c., to comply with notices or order.

See sect. 23 as to recovery of penalties.

23. Every penalty imposed by Part I. and Part III. of this Act may be recovered by summary proceedings before any justice in like manner and subject to the like right of appeal as if the same were a penalty recoverable by summary proceedings under the Metropolis Management Act, 1855, and the Acts amending the

Recovery penalties.

18 & 19 Vict.  
c. 120.



Section 23.  
*contd.*

same (a); and every penalty imposed by Part II. of this Act, or by any bye-law made in pursuance thereof, may be recovered by summary proceedings before any justice in like manner and subject to the like right of appeal as if the same were a penalty recoverable by summary proceedings under the Metropolitan Building Act, 1855, and the Acts amending the same (b): Provided always, that in any proceedings against any person for more than one penalty in respect of one or more breach or breaches of any provision of this Act or of any bye-law made in pursuance of this Act, it shall be lawful to include in one summons all such penalties, and the charge for such summons shall not exceed two shillings.

(a) See 18 & 19 Vict. c. 120, ss. 227, 231, 232, & 233; and 25 & 26 Vict. c. 102, ss. 102, 104, 106, 107, Appendix (A.), *post*.

(b) See 18 & 19 Vict. c. 122, ss. 103, 106, 107, *ante*.

Exceptions from  
Metropolis  
Management  
Acts extended  
to this Act.  
18 & 19 Vict.  
c. 120.

24. Her Majesty's royal palaces, and all buildings, works, and ground excepted from the operation of the Metropolis Management Act, 1855, and the Acts amending the same, or of any of the said Acts, shall be excepted from the operation of the provisions of this Act which are to be construed with such Acts, and all exemptions from the provisions of any of the said Acts shall extend to such of the provisions of this Act as are to be construed as aforesaid with such Acts.

See 18 and 19 Vict. c. 120, ss. 240-246.

Exceptions from  
Metropolitan  
Building Acts  
extended to  
this Act.  
18 & 19 Vict.  
c. 122.

25. Her Majesty's royal palaces, and all buildings, works, and ground excepted from the operation of the Metropolitan Building Act, 1855, and the Acts amending the same, or of any of the said Acts, shall be excepted from the operation of the provisions of this Act which



are to be construed with such Acts, and all exemptions from the provisions of any of the said Acts shall extend to such of the provisions of this Act as are to be construed as aforesaid with such Acts.

Section 25.

*contd.*

With regard to such exceptions, see 18 & 19 Vict. c. 122, s. 6, *ante*, p. 8, and 23 & 24 Vict. c. 52, s. 2, *ante*, p. 97.

26. Nothing in this Act, or in any bye-law of the board thereunder, shall apply to the Inner Temple, the Middle Temple, Lincoln's Inn, Gray's Inn, Staple Inn, Furnival's Inn, or the close of the collegiate church of Saint Peter, Westminster.

Act not to apply to the Inner and Middle Temple, &c.

These several places are in Schedule C. of the 18 & 19 Vict. c. 120; and by sect. 250 of that Act are included in the term "the metropolis."

27. Nothing contained in this Act, or in any bye-law thereunder made, shall apply to or shall authorize or empower the board, or any vestry, district board, or district surveyor, to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of her Crown, or in the right of her Duchy of Lancaster, without the consent in writing of the commissioners for the time being of Her Majesty's woods, forests, and land revenues, or one of them, on behalf of Her Majesty, in right of her Crown, first had and obtained for that purpose (which consent such commissioners are hereby respectively authorized to give), or without consent in like manner of the Chancellor of the said Duchy, on behalf of Her Majesty, in right of her said Duchy; neither shall anything contained in this Act, or in any bye-law thereunder made, extend to

Saving rights of the Crown and the Duchy of Lancaster.



## Section 27.

contd.

divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority vested in or enjoyed or exercisable by the Queen's Majesty, her heirs or successors, in right of her Crown, or in right of her said Duchy; and nothing contained in Part I. of this Act shall apply to the extension of Savoy-street or the bridge which the Chancellor and Council of the said Duchy are by the Metropolitan Board of Works (Various Powers) Act, 1875, empowered to make and construct, or to any house or building within the precinct of the Savoy, or upon the land mentioned in sect. 6 of the last-mentioned Act, constructed or extended after the passing of this Act, in or abutting upon any road, passage, or way existing, formed, or laid out at the time of the passing of this Act.

38 &amp; 39 Viet. c. 65.

The Act intended to be referred to is the 38 & 39 Viet. c. clxxix., intituled "An Act for authorizing improvements in and near the precinct of the Savoy near Charing-cross with a view to the opening of better connection with the Victoria embankment, and for conferring powers on the Metropolitan Board of Works with reference to Tooting, Graveney Common, and for other purposes."

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THE METROPOLITAN MANAGEMENT AND  
BUILDING ACTS (AMENDMENT) ACT, 1882.

45 VICT. CAP. 14.

*An Act to confer further powers upon the Metropolitan Board of Works with respect to Streets and Buildings in the Metropolis.* [19th June, 1882.]

WHEREAS it is expedient to provide for the better management of the metropolis by conferring further powers upon the Metropolitan Board of Works (in this Act referred to as "the Board") with respect to the management of existing streets and the formation of new streets and the regulation of buildings and structures in the metropolis :

And whereas for the purposes aforesaid it is expedient to amend the Metropolis Management Act, 1855, the Metropolitan Building Act, 1855, and the Acts amending the same respectively :

18 & 19 Vict.  
c. 120.

And whereas the objects aforesaid cannot be effected without the authority of Parliament :

18 & 19 Vict.  
c. 122, &c.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

1. This Act may be cited for all purposes as the Metropolis Management and Building Acts (Amendment) Act, 1882.

Short title.

2. This Act shall extend and apply to the metropolis as defined by the Metropolis Management Act, 1855.

Limit of Act.

See 18 & 19 Vict. c. 122, s. 4, *ante*, p. 5, and note thereto.

3. This Act shall consist of four parts.

Division of Act  
into four parts.



## PART II.

## Section 4.

Metropolis  
Management  
Acts and Part  
II. of Act to be  
construed as  
one Act.

Power to board  
to name and  
number streets  
in default of  
vestries, &c.,  
complying with  
order of board.

25 & 26 Vict.  
c. 102.

4. The Metropolis Management Act, 1855, and the Acts amending the same, and this part of this Act, shall be construed together as one Act.

5. Whenever the board have transmitted a copy of any order made by them in pursuance of the provisions of the eighty-seventh section of the Metropolis Management Amendment Act, 1862, to any vestry or district board, or to the commissioners of sewers of the city of London, and such vestry or district board or commissioners have for the space of three calendar months after the receipt of such order failed to perform all or any of the necessary acts or to take all or any of the requisite proceedings for carrying such order into execution, then and in every such case the board may perform all or any of such necessary acts or take all or any of such necessary proceedings which such vestry or district board or commissioners have failed to perform or take, and for such purpose, and generally for giving effect to the provisions of the said section, as amended by this section, the board shall have and may exercise all the rights, powers, authorities, and jurisdiction by the said section conferred upon vestries, district boards, and the said commissioners respectively, including the recovery of expenses from owners of houses and buildings, and the said section shall be construed accordingly.

See 25 & 26 Vict. c. 102, s. 87, Appendix (A.), *post*.

Preventing  
obstructions  
of streets.

6. In case any person not being lawfully authorized knowingly erects or places, or causes to be erected or placed, any post, rail, fence, bar, obstruction, or en-



encroachment whatsoever in, upon, over, or under any street, or alters or interferes with any street in such a manner as to impede or hinder the traffic for which such street was formed or laid out from passing over the same, he shall (in addition to any other proceedings to which he may be liable therefor) be liable to a penalty not exceeding ten pounds for every such offence, and to a further penalty not exceeding forty shillings for every day on which such offence is continued after the day on which he shall have received notice in writing from the board to remove such post, rail, fence, bar, obstruction, or encroachment, and to reinstate or restore such street to its former condition; and the board may, at the expiration of two days after giving such notice as aforesaid, demolish or remove any such post, rail, fence, bar, obstruction, or encroachment, and reinstate or restore such street to its former condition, and recover the expenses thereof in like manner as if the same were a penalty imposed by this part of this Act.

This section does not apply to the city of London, see sect 26, *post*. See also the note to sect. 26, sub-section 2, of the Metropolitan Building Act, 1855, *ante*, p. 26.

7. Where after the passing of this Act it is intended by any person to form or lay out any road, passage, or way for building as a street for the purposes of carriage traffic or of foot traffic only, in such manner that such road, passage, or way will not afford direct communication between two streets, such person shall, at least three months before such road, passage, or way is begun to be so formed or laid out, make an application to the board giving notice of such intention, and setting out a plan of the proposed street, with such particulars in relation thereto as may be required by the board,

Section 6.  
*contd.*

Provisions as to  
new streets.



Section 7.  
contd.

and if it appears to the board that it is expedient that such road, passage, or way should not be formed or laid out in manner aforesaid, or that such road, passage, or way should be formed or laid out in manner aforesaid subject to any conditions which the board may prescribe, the board may, by order made at any time before the expiration of the said period of three months, decline to sanction the formation or laying out of such road, passage, or way in manner aforesaid, or may sanction the formation or laying out of such road, passage, or way in manner aforesaid subject to such conditions as they may prescribe, and thereupon, and until the board shall otherwise direct, such road, passage, or way shall not be formed or laid out for building as a street in manner aforesaid where the board have declined their sanction, or shall not be formed or laid out for building as a street in manner aforesaid, except in accordance with the conditions prescribed, where the board have given their sanction subject to such conditions.

Any person forming or laying out, or commencing to form or lay out, or keeping open any road, passage, or way so formed or laid out in manner aforesaid contrary to the provisions of this section shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding twenty shillings for every day on which the offence is continued after the day on which the first penalty is incurred.

Provided always, that in case the said person so intending to form or lay out any road, passage, or way as aforesaid, considers that any of the conditions prescribed by the board are unreasonable, then the said person so objecting to the said conditions may appeal to the police magistrate for the district in which the



said road, passage, or way is situate, and his decision shall be final upon the question. Section 7.  
"contd.

This section does not apply to the city of London, see sect. 26, *post*.

8. Where after the passing of this Act it is intended by any person to form or lay out any road, passage, or way for building as a street for foot traffic only, such person shall, at least three months before such road, passage, or way is begun to be so formed or laid out, make an application to the board giving notice of such intention, and setting out a plan of the proposed street, with such particulars in relation thereto as may be required by the board; and if it appears to the board that it is expedient that such road, passage, or way should not be formed or laid out for foot traffic only, or that such road, passage, or way should be formed or laid out for foot traffic only subject to any conditions which the board may prescribe, the board may, by order made at any time before the expiration of the said period of three months, decline to sanction the forming or laying out of the same for foot traffic only, or may sanction the formation or laying out of such road, passage, or way for foot traffic only subject to such conditions as they may think proper to prescribe, and thereupon, and until the board shall otherwise direct, such road, passage, or way shall not be formed or laid out for building as a street for foot traffic only where the board have declined their sanction, or shall not be formed or laid out for building as a street for foot traffic only, except in accordance with the conditions prescribed, where the board have given their sanction subject to such conditions.

Provisions  
restricting in  
certain cases  
the laying out  
of streets for  
foot traffic  
only.

Any person forming or laying out, or commencing to form or lay out, or keeping open any such road, passage, or way for foot traffic only contrary to the pro-



**Section 8.***contd.*

visions of this section, shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding twenty shillings for every day on which such offence is continued after the day on which the first penalty is incurred.

Provided always, that in case the said person so intending to form or lay out any road, passage, or way as aforesaid, considers that any of the conditions prescribed by the board are unreasonable, then the said person so objecting to the said conditions may appeal to the police magistrate for the district in which the said road, passage, or way is situate, and his decision shall be final upon the question.

This section does not apply to the city of London, see sect. 26, *post*.

Board may annex and enforce conditions as to space to be left open where building is erected beyond the general or regular line of building.

9. Where the board consent, in writing, under section seventy-five of the Metropolis Management Amendment Act, 1862, to the erection by any person of a building or part of a building or erection in any street, place, or row of houses beyond the general or regular line of buildings in such street, place, or row of houses, the board may annex to such consent, if they think fit, any conditions they may think proper as to the amount of land in front of such building, part of a building, or erection which shall be dedicated to or left open for the use of the public; and where the board have annexed to such consent to the erection of such building, part of a building, or erection any such condition, then and in every such case such condition shall within three months after the erection of such building, part of a building, or erection be fulfilled, and if such person fails to fulfil such condition within such period as aforesaid he shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day upon which such condition



continues to be unfulfilled after the day on which the first penalty is incurred.

Section 9.  
*contd.*

See 18 & 19 Vict. c. 120, s. 74, Appendix (A.), *post*.

Provided always, that notwithstanding the imposition and recovery of any penalty under this section, the board, at any time after default in the fulfilling of any such condition, may cause complaint thereof to be made before a justice of the peace, who shall thereupon issue a summons requiring the owner or occupier of such building, part of a building, or erection, at a time and place to be stated in the summons, to answer such complaint, and if at the time and place appointed in such summons, the said complaint is proved to the satisfaction of the justice before whom the same is heard, such justice shall make an order in writing on such owner or occupier directing the demolition of such building, part of a building, or erection, or so much thereof as may be beyond such general or regular line, within such time as such justice shall consider reasonable, and shall also make an order for the costs incurred up to the time of the hearing; and in default of the building, part of a building, or erection complained of being demolished, within the time limited by such order, the board may forthwith enter the premises to which the order relates and demolish the building, part of a building, or erection complained of, and do whatever may be necessary to execute such order, and may also remove the materials of which the same was composed to a convenient place and (unless the expenses of the board be paid to them within fourteen days after such removal) sell the same as they think proper; and all expenses incurred by the board in executing such order and in disposing of the said materials may be deducted by the board out of the proceeds of such sale, and the balance, if any, shall be paid by the board on



Section 9.  
*confd*

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demand to the person entitled thereto; and in case such materials are not sold by the board, or in case the proceeds of the sale of the same are insufficient to defray the expenses incurred by the board as aforesaid, the board may recover such expenses or such insufficiency from such owner or occupier, together with all costs and expenses in respect thereof, in like manner as if the same were a penalty imposed by this part of this Act.

See sect. 22, *post*, as to the recovery of penalties.

Power to board to exercise powers of vestries and district boards under s. 75 of 25 & 26 Vict. c. 102, with respect to buildings, &c., erected beyond general line of buildings.

10. The powers conferred by the seventh-fifth section of the Metropolis Management Amendment Act, 1862 (*a*), upon the vestry of any parish and the board of works of any district with respect to any building or erection situate in such parish or district in case such building or erection has been erected, or begun to be erected or raised, beyond the general line of buildings in the street, place, or row of houses in which the same is situate without the consent in writing of the board, or contrary to the terms and conditions on which such consent may have been granted (including the powers for the recovery of expenses), shall extend and apply to and may be exercised by the board in like manner as by such vestry or board of works.

(*a*) In the Appendix, *post*.

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### PART III.

The Metropolitan Building Act and Part III. of Act to be construed as one Act.

11. The Metropolitan Building Act, 1855, and the Acts amending the same, and this part of this Act, shall be construed together as one Act.

Board may impose condition requiring

12. Whenever an application is made to the board by any person stating his desire to erect in any place



any iron or other building of a temporary character to which the rules of the Metropolitan Building Act, 1855, and the Acts amending the same, are inapplicable, the board may, in case of their approval of the plan and particulars of such building, limit the period during which such building shall be allowed to remain in such place, and may make such approval subject to such conditions as to the removal of such building or otherwise as they may think fit; and if at the expiration of the period limited by the board during which such building is allowed to remain in such place such building is not removed in accordance with such conditions, the board may, by notice in writing, require the occupier or owner of such building to remove such building within a reasonable time, to be specified in such notice, and in case such occupier or owner fails to comply with the requirements of such notice within such time as aforesaid he shall be liable to a penalty not exceeding five pounds for such default, and to a further penalty not exceeding forty shillings for every day on which such default continues after the day on which the first penalty is incurred.

Section 12.  
*contd.*

removal of iron  
or other build-  
ings of a tem-  
porary charac-  
ter within  
certain period.

Provided always, that notwithstanding the imposition and recovery of any penalty, the board may, at any time after default in complying with the requirements of such notice, if they think proper, cause complaint thereof to be made before a justice of the peace, who shall thereupon issue a summons requiring such occupier or owner to appear, at a time and place to be stated in the summons, to answer such complaint, and if at the time and place appointed in such summons the said complaint is proved to the satisfaction of the justice before whom the same is heard, such justice may make an order, in writing, authorizing the board to enter upon the land upon which such building is



Section 12.  
*contd*

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situated, and to remove or take down the same, and do whatever may be necessary for such purpose, and also to remove the materials of which the same is composed to a convenient place and (unless the expenses of the board be paid to them within fourteen days after such removal) sell the same as they think proper; and all expenses incurred in respect of any such order, and of entering and removing or taking down any such building, and in disposing of the said materials may be deducted by the board out of the proceeds of such sale, and the balance (if any) shall be paid by the board on demand to the person entitled thereto; and in case such materials are not sold by the board, or in case the proceeds of the sale of the same are insufficient to defray the expenses incurred by the board as aforesaid, the board may recover such expenses or such insufficiency from the occupier or owner of such building, together with all costs and expenses in respect thereof, in like manner as if the same were a penalty imposed by this part of this Act.

This section overcomes the difficulty experienced in the case of *Parsons v. Timewell*; see sect. 56 of the Metropolitan Building Act, 1855, and the note thereto.

See sect. 22, *post*, as to the recovery of penalties.

Temporary or movable wooden structures or erections not to be erected without license of board.

13. It shall not be lawful for any person to erect or set up in any place any wooden structure or erection of a movable or temporary character (unless the same be exempt from the operation of the first part of the Metropolitan Building Act, 1855 (*a*),) without a license in writing first had and obtained from the board for the erection or setting up of such structure or erection in such place, and every such license may contain such conditions with respect to such structure or erection and the time for which it is to be permitted to continue in such place as the board may think expe-



dient; and if any person erects or sets up any such structure or erection in any place without having had and obtained such license to erect or set up the same in such place, or makes default in observing any of the conditions contained in such license, or is guilty of any breach of such conditions, he shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day on which any such structure or erection continues erected or set up, without such license being had and obtained, or upon which such default or breach continues after the day on which the first penalty is incurred.

Section 13.  
*contd.*

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Provided always, that a license shall not be required in the case of any wooden structure or erection of a movable or temporary character erected by a builder for use during the construction, alteration, or repair of any building, unless the same is not taken down or removed immediately after such construction, alteration, or repair.

(a) See 18 & 19 Vict. c. 122, s. 6, *ante*, p. 8.

This section does not apply to the city of London, see sect. 26, *post*.

14. Every new building begun to be erected upon a site not previously occupied in whole or in part by a building, after the passing of this Act, intended to be used wholly or in part as a dwelling-house shall, unless the board otherwise permit, have directly attached thereto and in the rear thereof an open space exclusively belonging thereto of the following extent:

As to open  
spaces to  
dwellings.

Where such building has a frontage not exceeding 15 feet the extent of the open space shall be 150 square feet at the least;



Section 14.  
contd.

Where such building has a frontage exceeding 15 feet, but not exceeding 20 feet, the extent of the open space shall be 200 square feet at the least ;

Where such building has a frontage exceeding 20 feet, and not exceeding 30 feet, the extent of the open space shall be 300 square feet at the least ; and

Where such building has a frontage exceeding 30 feet the extent of the open space shall be 450 square feet at the least.

Every such open space shall be free from any erection thereon above the level of the ceiling of the ground floor storey, and shall extend throughout the entire width (exclusive of party or external walls) of such building at the rear thereof.

The provisions of this enactment shall be in addition to and shall form part of the rules of the Metropolitan Building Act, 1855, and the said Act shall be construed accordingly.

Conversion of  
 houses, &c.,  
 into public  
 buildings.

15. Where it is proposed to convert or alter any building erected for a purpose other than a public purpose into a public building within the meaning of the Metropolitan Building Act, 1855, and the Acts amending the same, such conversion or alteration, and the public building thereby formed, including the walls, roofs, floors, galleries, and staircases of the same, shall be carried into effect and constructed respectively in such manner as may be approved by the district surveyor, or in the event of disagreement may be determined by the board, and the provisions of the Metropolitan Building Act, 1855, and of the Acts amending the same, with respect or applicable to the construction of public buildings, shall extend and apply to such alteration or conversion as though such



alteration or conversion were the construction of a public building. Section 15.  
*contd.*

See 18 & 19 Vict. c. 122, s. 4, *ante*, p. 5, for the definition of the term "public buildings," also sect. 30, [p. 29, as to the construction of public buildings.

16. From and after the passing of this Act the restrictions imposed by the twenty-first section of the Metropolitan Building Act, 1855, with respect to the distance at which pipes for conveying hot water or steam may be placed from any combustible materials, shall not apply in the case of pipes for conveying hot water or steam at low pressure. Amendment of provisions of 18 & 19 Vict. c. 122, s. 21, with respect to hot water pipes.

17. Where a building or structure is ruinous, or so far dilapidated as thereby to have become and to be unfit for use or occupation, or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood, the board may make complaint thereof to a justice of the peace, who shall thereupon issue a summons requiring the owner and occupier of such building or structure, hereinafter referred to as a "neglected structure," to appear, at a time and place to be stated in the summons, to answer such complaint, and if at the time and place appointed in such summons the said complaint is proved to the satisfaction of the justice before whom the same is heard, such justice may, if he sees good cause, order the owner or, on his default, the occupier to take down or repair or rebuild the neglected structure or any part thereof, or to fence in the ground upon which the same stands, or any part thereof, or otherwise to put the same or any part thereof into a state of repair and good condition, to Dilapidated and neglected buildings.



**Section 17.** the satisfaction of the board, within a reasonable time to be fixed by the order, and may also make an order for the costs incurred up to the time of the hearing.

*contd.*

If the order is not obeyed the board may, with all convenient speed, enter upon the neglected structure or such ground as aforesaid and execute the order.

Where the order directs the taking down of a neglected structure or any part thereof, the board, in executing the order, may remove the materials to a convenient place and (unless the expenses of the board under this section in relation to such structure be paid to them within fourteen days after such removal) sell the same as they think fit.

All expenses incurred by the board under this section in relation to a neglected structure may be deducted by the board out of the proceeds of such sale, and the balance (if any) shall be paid by the board on demand to the person entitled thereto, and in case such neglected structure or some part thereof is not taken down, and such materials are not sold by the board, or in case the proceeds of the sale of the same are insufficient to defray the expenses incurred by the board as aforesaid, the board may recover such expenses or such insufficiency from the owner of such neglected structure, together with all costs and expenses in respect thereof, in like manner as if the same were a penalty imposed by this Act, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

Dangerous structures are dealt with under 18 and 19 Vict. c. 122, Part II. *ante*, p. 47.

Provisions for  
better securing  
payments to

**18.** Where under the provisions of the Metropolitan Building Act, 1855, and the Acts amending the same,



with respect to dangerous structures, or under the provisions of this Act with respect to neglected structures, the board have incurred any expenses in respect of any dangerous structure or any neglected structure, and have not been paid or have not recovered the same, the board may, after giving notice of their intention to do so, in manner hereinafter mentioned, to the owner of such dangerous or neglected structure, apply to a justice of the peace, at the time and place named in such notice, for an order fixing the amount of such expenses and the costs of such application, and directing that no part of the land upon which such dangerous or neglected structure stands or stood shall be built upon, or that no part of such neglected structure, if repaired or rebuilt, shall be let for occupation until after payment to the board of the amount of such expenses and costs as fixed by such order; and such justice, on proof of such expenses having been incurred by the board, and after hearing the parties appearing before him, may make such order as aforesaid, and thereupon and until payment to the board of the amount fixed by such order no part of such land shall be built upon, and no part of such neglected structure so repaired or rebuilt shall be let for occupation.

Every such order shall be signed in duplicate by such justice, and one of such orders shall be retained by the officer of the court in which such justice made the same and the other of such orders shall be kept at the office of the board.

The board shall keep at their principal office a register of all such orders as may from time to time be made under the authority of this section, and shall keep the same open for inspection by all persons at all reasonable times, and any such order not entered in

Section 18.  
*contd.*

board of  
expenses  
incurred by  
board in respect  
of dangerous or  
neglected  
structures.



Section 18. such register within ten days after the making of the  
*contd.* same shall cease to be of any force or effect.

A notice of the intention to make an application for any such order may be printed or written, or partly printed and partly written.

For the provisions with regard to the carrying into execution of the Building Acts, see 18 & 19 Vict. c. 122, ss. 68 and 73 to 81, *ante*, and 32 & 33 Vict. c. 82, s. 5, *ante*.

Intending purchasers of property in the metropolis, and their solicitors, to be really safe should search the register required to be kept by this section.

As to summonses and notices in the cases of dangerous and neglected structures.

19. Any summons or notice under this Act with respect to a dangerous or neglected structure shall be served or given in accordance with the provisions of section ninety-eight of the Metropolitan Building Act, 1855: Provided always, that where the owner of any such dangerous or neglected structure is not known to or cannot be found by the board or their officers, any such summons or notice shall be deemed to be duly served or given if a copy of the same be posted in a conspicuous place on such dangerous structure or neglected structure, or on the land whereon it stands or stood, at least two months before the time named in such summons or notice for the hearing of such complaint or for the making of such application.

See 18 & 19 Vict. c. 122, s. 98, *ante*. p. 79.

Proceedings as to irregular buildings, &c.

20. Proceedings with respect to any irregular building or structure shall not be prejudiced or affected by the removal or falling in of the roof of such building or structure.

Provisions as to settlement of differences between building and adjoining owners.

21. Where in any case not specially provided for by the Metropolitan Building Act, 1855, a difference has arisen between a building owner and an adjoining owner in respect of any matter arising under the said



Act, and both parties have concurred in the appointment of one surveyor for the settlement of such difference in manner prescribed by section eighty-five of the Metropolitan Building Act, 1855, then and in every such case, if such surveyor refuses or for seven days neglects to act, or dies, or becomes incapable to act before he has made his award, the matters in dispute shall be determined, under the provisions of the said section, in the same manner as if such single surveyor had not been appointed.

See 18 & 19 Vict. c. 122, s. 85, *ante*, p. 64.

When any such difference as aforesaid has arisen and each party has appointed a surveyor for the settlement of such difference in manner prescribed by the said section, and a third surveyor has been selected, then and in every such case, if such third surveyor refuses or for seven days neglects to act, or before such difference is settled dies or becomes incapable to act, the two surveyors shall forthwith, after such refusal, neglect, death, or incapacity, select another third surveyor in his place, and every third surveyor so to be selected as aforesaid shall have the same powers and authorities as were vested in the third surveyor at the time of such his refusal, neglect, death, or incapacity as aforesaid.

When any such difference as aforesaid has arisen, and each party has appointed a surveyor for the settlement of such difference in manner prescribed by the said section, then, if the two surveyors so appointed refuse or for seven days after request of either party neglect to select a third surveyor or another third surveyor in the event of the refusal or neglect to act, death, or incapacity of the third surveyor for the time being, one of Her Majesty's principal Secretaries of State may,

Section 21.

contd.



Section 21.  
*contd.*  

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on the application of either party, select some fit person to act as third surveyor, and every surveyor so selected as aforesaid shall have the same powers and authorities as if he had been selected as a third surveyor by the two surveyors so appointed by the parties.

When any such difference as aforesaid has arisen, and each party has appointed a surveyor for the settlement of such difference in manner prescribed by the said section, then and in every such case, if before such difference is settled any such surveyor so appointed as aforesaid by either party dies or becomes incapable to act, the party by whom such surveyor was appointed may appoint in writing some other surveyor to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other surveyor may proceed *ex parte*, and the decision of such remaining or other surveyor shall be as effectual as if he had been a single surveyor in whose appointment both parties had concurred, and every surveyor so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former surveyor at the time of such his death or disability as aforesaid.

When any such difference as aforesaid has arisen, and each party has appointed a surveyor for the settlement of such difference in manner prescribed by the said section, then and in every such case, if either of the surveyors refuses or for seven days neglects to act, the other surveyor may proceed *ex parte*, and the decision of such other surveyor shall be as effectual as if he had been a single surveyor in whose appointment both parties had concurred.



## PART IV.

22. Every penalty imposed by Part II. of this Act Section 22.  
 may be recovered by summary proceedings before any Recovery of  
 justice in like manner and subject to the like right of penalties.  
 appeal as if the same were a penalty recoverable by  
 summary proceedings under the Metropolis Manage-  
 ment Act, 1855, and the Acts amending the same ; and 18 & 19 Vict.  
 every penalty imposed by Part III. of this Act may be c. 120.  
 recovered by summary proceedings before any justice  
 in like manner and subject to the like right of appeal as  
 if the same were a penalty recoverable by summary  
 proceedings under the Metropolitan Building Act, 1855, 18 & 19 Vict.  
 and the Acts amending the same : Provided always, c. 120.  
 that in any proceedings against any person for more  
 than one penalty in respect of one or more breach or  
 breaches of any provision of this Act, or of any bye-  
 law made in pursuance of this Act, it shall be lawful to  
 include in one summons all such penalties, and the  
 charge for such summons shall not exceed two shil-  
 lings.

With regard to this section, see 41 & 42 Vict. c. 32, s. 23,  
*ante*, p. 125.

23. Her Majesty's royal palaces, and all buildings, Exceptions  
 works, and ground excepted from the operation of the from Metro-  
 Metropolis Management Act, 1855, and the Acts polis Manage-  
 amending the same, or of any of the said Acts, shall ment Acts  
 be excepted from the operation of the provisions of this extended to  
 Act which are to be construed with such Acts, and all this Act.  
 special exemptions from the provisions of any of the 18 & 19 Vict.  
 said Acts shall extend to such of the provisions of this c. 120.



Section 23. Act as are to be construed as aforesaid with such  
*contd.*  
 Acts.

See 41 & 42 Vict. c. 32, s. 24, *ante*, p. 126.

Exceptions  
 from Metro-  
 politan Build-  
 ing Acts  
 extended to  
 this Act.

18 & 19 Vict.  
 c. 122.

24. Her Majesty's royal palaces, and all buildings, works, and ground excepted from the operation of the Metropolitan Building Act, 1855, and the Acts amending the same, or of any of the said Acts, shall be excepted from the operation of the provisions of this Act which are to be construed with such Acts, and all special exemptions from the provisions of any of the said Acts shall extend to such of the provisions of this Act as are to be construed as aforesaid with such Acts.

See 41 & 42 Vict. c. 32, s. 25, *ante*, p. 126.

Act not to ap-  
 ply to the Inner  
 and Middle  
 Temple, &c.

25. Nothing in this Act shall apply to the Inner Temple, the Middle Temple, Lincoln's Inn, Gray's Inn, Staple Inn, Furnival's Inn, or the close of the collegiate church of Saint Peter, Westminster.

See 41 & 42 Vict. c. 32, s. 26, *ante*, p. 127.

Ss. 6, 7, 8, and  
 13 not to apply  
 to city of  
 London.

26. The provisions of sections six, seven, eight, and thirteen of this Act shall not apply to the city of London and the liberties thereof.

Expenses of  
 Act.

27. All the costs, charges, and expenses of and incident to the applying for, obtaining, and passing of this Act shall be paid by the board.



## APPENDIX (A).

Appendix.

14 GEO. 3, CAP. 78.

*An Act for the further and better Regulation of Buildings and Party Walls; and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places, within the Weekly Bills of Mortality, the Parishes of Saint Mary le Bone, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law.*

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83. And, in order to deter and hinder ill-minded persons from wilfully setting their house or houses or other buildings on fire, with a view of gaining to themselves the insurance money, whereby the lives and fortunes of many families may be lost and endangered, be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the respective governors or directors of the several insurance offices for insuring houses or other buildings against loss by fire, and they are hereby authorized and required, upon the request of any person or persons interested or entitled unto any house or houses, or other buildings which may hereafter be burnt down, demolished or damaged by fire, or upon any grounds of suspicion that the owner or owners, occupier or occupiers, or other person or persons who shall have insured such house or houses, or other buildings, have been guilty of fraud, or of wilfully setting their

Money insured  
on houses burnt,  
how applied.



## Appendix.

house or houses, or other buildings, on fire, to cause the insurance money to be laid out and expended, as far as the same will go, towards rebuilding, or repairing, or re-instating such house or houses, or other buildings, so burnt down, demolished, or damaged by fire; unless the party or parties claiming such insurance money shall, within sixty days next after his, her, or their claim is adjusted, give a sufficient security to the governors or directors of the insurance office, where such house or houses, or other buildings are insured, that the same insurance money shall be laid out and expended as aforesaid; or unless the said insurance money shall be, in that time, settled and disposed of to and amongst all the contending parties, to the satisfaction and approbation of such governors or directors of such insurance office respectively.

This was decided by Lord WESTBURY, L.C., in *ex parte Gorley*, 4 De G. J. & S. 477, to be a general enactment, and not confined within the limits of the Bills of Mortality.

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No action to  
lie where fire  
accidentally  
begins.

86. And be it further enacted by the authority aforesaid, that no action, suit or process whatever shall be had, maintained, or prosecuted against any person in whose house, chambers, stable, barn, or other building, or on whose estate any fire shall, after the said twenty-fourth day of June, accidentally begin, nor shall any recompense be made by such person for any damage suffered thereby, any law, usage, or custom to the contrary notwithstanding; and in such case, if any action be brought, the defendant may plead the general issue, and give this Act, and the special matter in evidence, at any trial thereupon to be had; and in case the plaintiff become nonsuited, or discontinue his action or suit, or if a verdict pass against him, the defendant shall recover treble costs; provided that no contract or agreement made between landlord and tenant shall be hereby defeated, or made void.



## 7 &amp; 8 VICT. CAP. 84.

## Appendix.

*An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood.*

[9th August, 1844.]

(The following are the unrepealed sections 7 & 8 Vict. c. 84, referred to in section 109 of the Metropolitan Building Act, 1855.)

54. And, for the purpose of making provision concerning businesses dangerous in respect of fire or explosion, be it enacted, with regard to the following businesses (that is to say), the manufacture of gunpowder or of detonating powder, or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation, or ignition, or of vitriol, or of turpentine, or of naphtha, or of varnish, or of fireworks, or painted table covers, and any other manufacture dangerous on account of the liability of the materials or substances employed therein to cause sudden fire or explosion, so far as relates to the erection of buildings in the neighbourhood of the place where any such building is carried on, and so far as relates to the carrying on of any such business in the neighbourhood of public ways or buildings: That it shall not be lawful hereafter to erect any building of any class nearer than fifty feet from any building which shall be in use for any such dangerous business; but if a building already existing within fifty feet from any such building be hereafter pulled down, burnt, or destroyed by tempest, such building may be rebuilt; and that it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than forty feet from any public way, or than fifty feet from any other building, or any vacant ground belonging to any other person than his landlord; and that if any such business be now carried on in any situation

Buildings near dangerous businesses as to fire.

Distance from buildings.

New businesses.



## Appendix.

Prohibition  
after twenty  
years.

Fifty pounds  
penalty and  
costs.

Costs.  
Distress;

or imprison-  
ment.

Buildings near  
noxious busi-  
nesses as  
regards health.

Distance from  
buildings.

within such distances, then from the expiration of the period of twenty years next after the passing of this Act it shall not be lawful to continue to carry on such business in such situations; and that if any person erect any building in the neighbourhood of any such business contrary to this Act, then, on conviction thereof before two justices, he shall forfeit a sum not exceeding fifty pounds for every day during which such building shall so remain near to such dangerous business; or if any person establish anew any such business, or carry on any such business contrary to this Act, then, on conviction thereof before two justices, such person shall be liable to forfeit for every day during which such business shall be so carried on a sum not exceeding fifty pounds, as the said justices shall determine, and that it shall be lawful for the justices also to award to the prosecutor such costs as shall be deemed reasonable; and that if the offender either fail or refuse to pay such penalty and costs immediately after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding six months, at the discretion of such justices, and that by warrant under the hands and seals of two or more justices of the peace.

See the circular of the Superintending Architect, dated 11th October, 1864, *post*.

55. And, for the purposes of making provision concerning businesses offensive or noxious, be it enacted, with regard to the following businesses, that is to say,

Blood-boiler,	Soap-boiler,
Bone-boiler,	Tallow-melter,
Fell-monger,	Tripe-boiler,
Slaughterer of cattle, sheep, or horses,	

and any other like business offensive or obnoxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of other buildings of the first or dwelling-house class, that it shall not be lawful hereafter to erect any buildings of the first or dwelling-house class nearer to than fifty feet from any building which shall be in use for any such offensive or noxious business; but if a building already existing within fifty feet be hereafter burnt.



pulled down, or destroyed by tempest, such building may be rebuilt; and that it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than forty feet from any public way, or than fifty feet from any other such buildings of the first or dwelling-house class; and that if any such business be now carried on in any situation within such distances, then, from the expiration of the period of thirty years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation, save as is hereinafter provided; and that if any person erect any building in the neighbourhood of any such business contrary to this Act, then, on conviction thereof before two justices, he shall forfeit a sum not exceeding fifty pounds for every day during which such building shall remain near to such offensive or noxious business; or if any person establish anew any such business, or carry on any such business contrary to this Act, then on conviction thereof before two justices, such person is hereby made liable to forfeit for every day during which such business shall be carried on a sum not exceeding fifty pounds, as the said justices shall determine, and that it shall be lawful for the justices also to award to the prosecutor such costs as shall be deemed reasonable; and that if the offender either fail or refuse to pay such penalty and costs immediately after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding six months, at the discretion of such justices, and that by warrant under the hands and seals of two or more justices of the peace.

## Appendix.

New businesses.

Prohibition after thirty years.

Fifty pounds penalty and costs.

Distress;

or imprisonment.

56. Provided always, and be it enacted, with regard to any such offensive or noxious business, whether such business be now carried on at a less distance than forty feet from any public way, or than fifty feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, that every such penalty hereinbefore imposed shall be enforceable only at a special sessions of the peace summoned for that purpose, or on an appeal

The penalty hereinbefore imposed to be enforceable only at a special sessions.



## Appendix.

Use of means  
to mitigate  
noxiousness  
of business.

as hereinafter provided, or on a trial as hereinafter provided; and that, notwithstanding the said term of thirty years shall have expired, if any party charged with carrying on such business show that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, then it shall be lawful for such justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: provided further, with regard to such offensive or noxious business, so far as relates to the adoption of means to mitigate the injurious effects thereof, that, notwithstanding the said period of thirty years shall have expired, if it shall appear to the justices, whether at petty sessions as aforesaid, or on appeal, or on trial by jury, as hereinafter provided, that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate, so far as possible, the effects of such business, then, although he hath not adopted all or the best means available for the purpose, yet it shall be lawful for such justices assembled and they are hereby empowered to suspend execution of their order or determination, upon condition that within a reasonable time, to be named, the party convicted do adopt such other or better means as to the said justices shall seem fit, or before passing final sentence, and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future: provided always, that if the matter in respect of which such penalty shall be incurred come before any superior court it shall be lawful for such court to exercise such power of mitigating such penalty or of suspending the execution of any judgment, order, or determination in the matter, or to make such order touching the carrying on of such business as to the court shall seem fit in the case.

Mitigation of  
penalty by  
superior courts.

Conviction and  
appeal as to  
certain trades  
not specified:

57. And be it enacted, with regard to any business, offensive, noxious, or dangerous, and with regard to any building erected or continued within any such distance as aforesaid from any such business, dangerous, noxious, or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, that if any person be dissatisfied with the decision of such justices, and if, within four days after such decision,



notice be given to the party appealed against, by or on behalf of such person, of his intention to appeal, and if he enter into a recognizance, with two sufficient securities, conditioned to try such appeal, and to abide the order of the court, and pay to the party appealed against such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at their general quarter sessions of the peace to be holden within four months after such conviction for the place in which such premises shall be situate; and that if the premises be situate within the city of *London* and liberties thereof, then the appeal must be to the quarter sessions thereof, or if the premises be situate in the counties of *Middlesex*, *Kent*, or *Surrey*, or in the city and liberties of *Westminster*, or in the liberties of Her Majesty's Tower of *London*, then to the quarter sessions thereof respectively, as the case shall be; and that if within the above-mentioned period such appellant shall have entered into such recognizance as herein required, and if within one month thereafter he give notice of the grounds of such appeal, then it shall be lawful for such justices and they are hereby empowered to proceed to hear and examine on oath into the causes and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper; and the order, judgment, and determination of the said justices in their respective sessions shall be binding and conclusive upon all parties.

## Appendix.

Recognizances;

Sessions.

Proceedings.

58. Provided always, and be it enacted, that if before conviction by two such justices the party complained against desire to have the matter tried by a jury, and enter into a recognizance to try such matter without delay, and to pay all costs of trial if a verdict be found against him, then such matter may be tried at the next practicable court of quarter sessions, or whensoever the court shall appoint; and that thereupon, or on the application of such party, it shall be lawful for the said court of quarter sessions and they are hereby authorized and required to issue their warrant or precept to the sheriff or other proper officer (as the case may be), requiring him to return a competent number of persons qualified to serve on juries according to the provisions

Trial by jury  
at quarter ses-  
sions.Summoning of  
a jury.



## Appendix.

6 Geo. 4. c. 50.  
Witnesses.

View of the  
premises.

Verdict of  
jury.

Judgment ac-  
cording to ver-  
dict ;

and judgment  
to be binding.

Appeals to  
quarter sessions  
for Surrey and  
Kent.

To sessions at  
Southwark.

of an Act made in the sixth year of the reign of his late Majesty King George the Fourth, "For consolidating and amending the Laws relative to Jurors and Juries;" and that it shall be lawful for the said court of quarter sessions and they are hereby authorized and empower by precept, from time to time as occasion may require, to call before them respectively every person who shall be thought proper or necessary to be examined as a witness before them on oath concerning the premises; and if the said court think fit, it shall be lawful for them and they are hereby empowered to authorize the said jury to view the place in question in such manner as they shall direct, and to command the attendance of such jury, and of all such witnesses and parties as shall be necessary or proper, until such affairs for which they are summoned shall be concluded; and that the said jury shall inquire and try, and determine by their verdict, whether the business in question be offensive or noxious, and whether the party in question have done any act whereby the penalty hereby imposed in respect thereof has been incurred; and that, subject to the power hereinbefore conferred of mitigating such penalty, or suspending their judgment, order, or determination thereon, or making such order touching the carrying on of the business aforesaid, the said court of quarter sessions shall give judgment according to such verdict, and shall award the penalty (if any) incurred by the defendant, and shall and may (if they see fit) award to either of the parties such costs as they may deem reasonable; which verdict, and the judgment, award, order, or determination thereupon shall be binding and conclusive.

59. And be it enacted, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive, or noxious business, so far as relates to the place where such appeal is to be heard, that if the appeal be to the general quarter sessions of the peace for the county of *Surrey* or the county of *Kent*, then the jury (if any) to be impannelled in pursuance of this Act, and all parties required to attend the quarter sessions for the said counties pursuant to such application, shall be impannelled and required to attend at some general or special adjournment of the said quarter sessions to be held within six weeks next after the original sessions; and that if the matter relate to the county of *Surrey*, then such adjournment shall be to some convenient



place in the borough of *Southwark* in the said county ; and that if the matter relate to the county of *Kent*, then such adjournment shall be to some convenient place in the borough of *Greenwich* in the said county ; and such times and places shall be appointed by the justices of the said counties respectively assembled at such original sessions ; and that from time to time every further meeting of the said sessions, for anything to be done upon such application, shall be appointed at or within the space of three weeks from the last meeting ; and that from time to time it shall be lawful for the justices of the peace for the said counties of *Surrey* and *Kent* respectively, and they respectively are hereby empowered and required, to make such adjournment and hold such sessions as there shall be occasion.

## Appendix.

To sessions at Greenwich.

Further meetings.

Adjournments.

60. Provided always, and be it declared, with regard to any business which is contrary to any existing Act of parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, that, notwithstanding anything in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on within any limits or in any manner contrary to any public, local, or private Act of parliament, or otherwise contrary to law ; nor to affect, abridge, or restrain the right, the duty, or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on within the limits of this Act, any offensive, noxious, or dangerous business.

Common law and statutory remedies not affected.

61. And further, for the regulation or removal of any offensive, noxious, or dangerous business now carried on, be it enacted, with regard to any such business, so far as relates to the purchase thereof or of the premises wherein it shall be carried on, that if two-thirds in number of the inhabitant householders of any parish in which such business shall be carried on present a memorial to Her Majesty in council, stating the existence of such offensive, noxious, or dangerous business in such parish or the neighbourhood thereof, and praying the removal of such business therefrom, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the

Regulation of removal of trades deemed nuisances by purchase ; memorial to Queen in council.



**Appendix.**

Order for  
removal.

Compensation.

35 Vict. c. 12.

Unlawful to  
continue such  
trades after  
purchase.

Funds for  
defraying com-  
pensation.

memoralists, or by means of a rate to be levied on the inhabitants of the said parish, or such part thereof as may be affected by such business, then it shall be lawful for Her Majesty to refer the matter to the lords of the committee of the privy council for trade to consider the character of such business, whether it be offensive, noxious, or dangerous; and if it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, then it shall be lawful for Her Majesty, by order in council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate as aforesaid, as to Her Majesty shall seem fit, and also to direct the sheriff of the county or other proper person in the parish or liberty in which such business is carried on to summon a jury, according to the provision of an Act made and passed in the fourth year of the reign of Her present Majesty, intituled "An Act to enable Her Majesty's Commissioners of Woods to make a new street from Coventry Street to Long Acre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; and that if within three months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such parish or neighbourhood pay or tender such compensation, then within three months from the payment or tender of such compensation it shall cease to be lawful for the party carrying on such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises.

62. And be it enacted, with regard to the funds for defraying such compensation, so far as relates to the raising thereof, that if Her Majesty shall by such order direct the compensation to be paid by means of a rate, then it shall be lawful for the overseers of the parish to raise such sum as shall be necessary, either as a separate rate in the nature of poor's rate, or as part of the poor's rate, on the inhabitants at large of such parish; or if in pursuance of the memorial of the inhabitants of such part of the



said parish as shall be affected by the said business it be appointed by such order in council that such last-mentioned inhabitants do defray such compensation, then it shall be lawful for the said overseers to raise such sum as shall be necessary for that purpose ; and that if such rate be so levied either on the inhabitants at large of such parish, or on the inhabitants of such part thereof as aforesaid, then such rate may be levied and recovered as poor's rates are leviable and recoverable.

## Appendix.

Levy of rate.

63. Provided always, and be it enacted, with regard to public gas works and other works heretofore established within the limits of this Act, so far as relates to the operation of the provisions of this Act in reference to businesses dangerous in respect of fire or explosion, or offensive or noxious, that such provisions shall not be deemed to apply to any such public gas works ; and that if any Act of parliament now in force relating to gas companies to which such works belong any extension of such works, or any additional works, or any other works, be authorized to be erected or substituted, then such provisions shall not be deemed to apply to any such extension, addition, or substitution within the limits of the district now lighted from such first-mentioned works ; and that such provisions shall not be deemed to apply to any premises entered or used for the purpose of distillation or the rectification of spirits under the survey of the commissioners of excise or their officers.

Exemption of public gas works.

Extension or substitution of works.

Distilleries.



## Appendix.

8 &amp; 9 VICT. CAP. 16.

*An Act for consolidating in One Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a Public Nature.*  
[8th May, 1845.]

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(The following are the clauses in the Companies Clauses Consolidation Act, 1864, referred to by sect. 97 of the Metropolitan Building Act, 1855.)

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And with respect to the settlement of disputes by arbitration be it enacted as follows—

Appointment of arbitrators when questions are to be determined by arbitrators.

128. When any dispute authorized or directed by this or the special Act, or any Act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

129. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as arbitrator, the party



by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

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130. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ; and if such umpire shall die, or refuse or for seven days neglect to act, they shall forthwith after such death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

\* \* \* \* \*

132. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Power of arbitrators to call for books, &amp;c.

133. Except where by this or the special Act, or any Act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpires, as the case may be.

Costs in their discretion.

134. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Submission to arbitration a rule of court.



## Appendix.

18 &amp; 19 VICT. CAP. 120.

*An Act for the better Local Management of the Metropolis.*

[14th August, 1855.]

\* \* \* \* \*

Vestry or district board in certain cases may compel owners, &c., of houses to construct drains into the common sewer.

73. If any house or building, whether built before or after the commencement of this Act, situate within any such parish or district, be found not to be drained by a sufficient drain communicating with some sewer, and emptying itself into the same, to the satisfaction of the vestry or board of such parish or district, and if a sewer of sufficient size be within 100 feet of any part of such house or building, on a lower level than such house or building, it shall be lawful for the vestry or board, at their discretion, by notice in writing, to require the owner of such house or building forthwith, or within such reasonable time as may be appointed by the vestry or board, to construct and make from such house or building into any such sewer a covered drain, and such branches thereto, of such materials, of such size, at such level, and with such fall as shall be adequate for the drainage of such house or building, and its several floors or storeys, and also of its ells, waterclosets, privies, and offices (if any), and for conveying the soil, drainage, and wash therefrom into the said sewer, and to provide fit and proper paved or impermeable sloped surfaces for conveying surface water thereto, and fit and proper sinks, and fit and proper syphoned or otherwise trapped inlets and outlets for hindering stench therefrom, and fit and proper water supply, and water supplying pipes, cisterns, and apparatus for scouring the same, and for causing the same to convey away the soil, and fit and proper sand traps, expanding inlets, and other apparatus for hindering the entry of improper substances therein, and all other such fit and proper works and arrangements as may appear to the vestry or board, or to their officers, requisite to secure the safe and proper working of the said drain, and to prevent the same from obstructing or otherwise injuring or impeding the action of the



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sewer to which it leads; and it shall be lawful for the said vestry or board to cause the said works to be inspected while in progress, and from time to time during their execution to order such reasonable alterations therein, additions thereto, and abandonment of part or parts thereof, as may to the vestry or board or their officers appear, on the fuller knowledge afforded by the opening of the ground, requisite to secure the complete and perfect working of such works; and if the owner of such house or building neglect or refuse, during twenty-eight days after the said notice has been delivered to such owner, or left at such house or building, to begin to construct such drain and other works aforesaid, or any of them, or thereafter fail to carry them on and complete them with all reasonable despatch, it shall be lawful for the vestry or board to cause the same to be constructed and made, and to recover the expenses to be incurred thereby from such owner in the manner hereinafter provided.

Penalty on owner, &c., for neglect.

74. If it appear to the vestry or board of any parish or district that a group or block of contiguous houses, or of adjacent detached or semi-detached houses, may be drained and improved more economically or advantageously in combination than separately, and a sewer of sufficient size already exist or be about to be constructed within 100 feet of any part of such group or block of houses, whether contiguous, detached, or semi-detached, it shall be lawful for such board or vestry to order that such group or block of houses be drained and improved, as hereinbefore provided, by a combined operation.

Provision for combined drainage of blocks of houses.

75. It shall not be lawful to erect any house or other building in any parish mentioned in schedule (A.) to this Act, or in any district mentioned in schedule (B.) to this Act, or to rebuild any house or building within any such parish or district which has been pulled down to or below the floor commonly called the ground floor, or to occupy any house or building so newly built or rebuilt, unless a drain and such branches thereto and other connected works and apparatus and water supply as heretofore mentioned be constructed and provided to the satisfaction of the surveyor of the vestry or board of works for such district, of such materials, of such size, at such level, and with such fall as they may direct, so that the same shall be avail-

No house to be built without drains constructed to the satisfaction of the vestry or district board.



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able for the drainage of the lowest floor of such house or building, and of its several floors or storeys, and also of its areas, waterclosets, privies, and offices (if any), which drain shall lead from such house or building, or the intended site of such house or building, to such sewer, already made or intended to be constructed near thereto, as the vestry or board shall direct and appoint, or if there be no such sewer existing or intended to be constructed within 100 feet of any part of the intended site of such house or building, then to such covered cesspool or other place, not being under any dwelling house, as the vestry or board shall direct; and whenever any house or building is rebuilt as aforesaid, the level of the lowest floor of such house or building shall be raised sufficiently to allow of the construction of such a drain and such branches thereto and other works and apparatus as are hereinbefore required, and for that purpose the levels shall be taken and determined under the direction of the vestry or district board.

Notice of buildings to be given to the vestry or district board before commencing the same.

76. Before beginning to lay or dig out the foundation of any new house or building within any such parish or district, or to rebuild any house or building therein, and also before making any drain for the purpose of draining directly or indirectly into any sewer under the jurisdiction of the vestry or board of or for any such parish or district, seven days' notice in writing shall be given to the vestry or board by the person intending to build or rebuild such house or building or to make such drain; and every such foundation shall be laid at such level as will permit the drainage of such house or building in compliance with this Act, and as the vestry or board shall order, and every such drain shall be made in such direction, manner, and form, and of such materials and workmanship, and with such branches thereto and other connected works and apparatus and water supply as hereinbefore mentioned, and as the vestry or board shall order, and the making of every such drain shall be under the survey and control of the vestry or board; and the vestry or district boards shall make their order in relation to the matters aforesaid, and cause the same to be notified to the person from whom such notice was received within seven days after the receipt of such notice, and in default of such notice, or if such house, building, or drain, or branches thereto, or other connected works and ap-



paratus and water supply, be begun, erected, made, or provided in any respect contrary to any order of the vestry or board made and notified as aforesaid, or the provisions of this Act, it shall be lawful for the vestry or board to cause such house or building to be demolished or altered, and to cause such drain or branches thereto and other connected works and apparatus and water supply to be relaid, amended, or remade, or, in the event of omission, added, as the case may require, and to recover the expenses thereof from the owner thereof in the manner hereinafter provided.

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\* \* \* \* \*

78. Whenever it is necessary to open any part of the pavement of any street or public place, for the purpose of making or branching any private drain into any of the sewers or drains vested in the metropolitan board of works, or any vestry or district board under this Act, or authorized to be made by them under this Act, it shall be lawful for the vestry or board, in case they think fit so to do, to make so much and such part of such private drain, and also to construct so much and such part of the work necessary for branching the same into the public sewers as shall be under or in any street, and to recover the expenses incurred thereby from the owner of the house, building, or ground to which such private drain belongs, in the manner hereinafter provided.

Power to metropolitan board or vestry or district board to branch private drains into sewers, at the expense of the party to whom they belong.

79. It shall be lawful for any such vestry or board to contract and agree with the owners or occupiers of any houses, buildings, or ground that any drains required to be made, altered, or enlarged by such owners shall be constructed, made, altered, and enlarged by the vestry or board; and the cost price of making, altering, or enlarging such drains, as certified by the surveyor of the vestry or board, shall be repaid by the owner or occupier so agreeing to the vestry or board, and in default of payment the same may be recovered in the manner hereinafter provided.

Vestry or district board may agree to make house drains at the expense of owners or occupiers.

80. Where any sewer in any of the parishes mentioned in either of the schedules (A.) and (B.) to this Act, into which any drain shall be made or branched, has been built since the third

Vestry or district board may order a contribution



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towards construction of sewers in certain cases.

day of September, 1813, and before the commencement of this Act, at the expense of any person or body other than any commissioners of sewers, the vestry or district board in whom such sewer is vested may order such sum as they may deem just to be paid and contributed by the owner of the house to which such drain belongs towards the expense of the construction of such sewer, which sum shall, on the receipt thereof by such vestry or board, be paid over to the person or body aforesaid, and such vestry or board may, if they see fit, order and accept payment of such sum, with interest after a rate not exceeding 5*l.* for the 100*l.* by the year, by instalments within any period not exceeding twenty years.

Penalty on erecting or rebuilding houses without proper water-closets, &c.

81. After the commencement of this Act it shall not be lawful newly to erect any house, or to rebuild any house pulled down to the extent aforesaid, within any parish mentioned in schedule (A.) to this Act, or any district mentioned in schedule (B.) to this Act, without a sufficient water-closet or privy, and ashpit furnished with proper doors and coverings, and also furnished as regards the water-closet with suitable water supply and water supply apparatus, and with suitable trapped soilpan and other suitable works and arrangements, so far as may be necessary to ensure the efficient operation thereof; and whosoever shall offend against this enactment shall be liable to a penalty not exceeding 20*l.*, and if at any time it appear to the vestry or district board of such parish or district that any house in any such parish or district, whether built before or after the commencement of this Act, is without a sufficient water-closet or privy and ashpit furnished with proper doors and coverings, and with other apparatus and works as aforesaid, the vestry or district board shall, in case the same can be provided without disturbing any building, give notice in writing to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to provide a sufficient water-closet or privy, and ashpit so furnished as aforesaid, or either of them, as the case may require; and if such notice be not complied with, it shall be lawful for the vestry or district board to cause to be constructed a sufficient water-closet or privy and ashpit, or either of them, or do such other works as the case may require, and to recover the expenses incurred by them in so doing from the

Power to vestry, &c., to require owners, &c., to provide sufficient water-closets, &c.

If owners fail, vestry, &c., to cause the work to be done at their expense.



owner of such house in manner hereinafter provided : Provided always, that where a watercloset or privy has been and is used in common by the inmates of two or more houses, or if in the opinion of the vestry or district board a watercloset or privy may be so used, they need not require the same to be provided for each house.

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82. It shall be lawful for any such vestry or board, or for their surveyor or inspector, or such other person as they appoint, to inspect any drain, watercloset, privy, cesspool, or water supply apparatus, or sinks, traps, syphons, pipes, or other works or apparatus connected therewith, within the parish or district of such vestry or board, and for that purpose, at all reasonable times in the daytime, after twenty-four hours' notice in writing has been given to the occupier of the premises to which such drain, watercloset, privy, cesspool, or water supply apparatus, or other connected works or apparatus as aforesaid, is attached, or left upon the premises, or in case of emergency without notice, to enter, by themselves or their surveyor or inspector and workmen, upon any premises, and cause the ground to be opened in any place they think fit, doing as little damage as may be.

Power for vestries and district boards to authorize inspection of drains, privies, and cesspools.

83. In case any drain, watercloset, privy, cesspool, or water supply, or water supply apparatus, hereinbefore mentioned, be found, on inspection, not to have been made or provided according to the directions or regulations of the vestry or district board, or contrary to the provisions of this Act, or in case any person without the consent of the vestry or district board, construct, rebuild, or unstop any sewer, drain, watercloset, privy, or cesspool, which may have been ordered by them not to be made, or to be demolished or stopped up, or in case any person discontinue any water supply, or destroy any connected works or apparatus as aforesaid, or in case any person, without the consent of the vestry or district board, break into any sewer vested in such vestry or board, every person so offending shall forfeit and pay any sum not exceeding 10*l*.; and in case the person so making any sewer, drain, watercloset, privy, cesspool, or other works or apparatus as aforesaid, contrary to the directions or regulations of the vestry or board, or contrary to the provisions of this Act, or,

Penalty on persons improperly making or altering drains.



## Appendix.

without such consent as aforesaid, constructing, rebuilding, or unstopping any sewer, drain, watercloset, privy or cesspool which may have been ordered to be demolished or stopped up, or discontinuing any water supply or destroying any connected works or apparatus as aforesaid, or breaking into any such sewer as aforesaid, do not, within fourteen days after notice in writing by the vestry or board, cause such sewer, drain, watercloset, privy, or cesspool to be altered or reinstated in conformity with the directions of the vestry or board, or, as the case may be, to be demolished or stopped up, or such water supply to be renewed, or such connected works or apparatus to be restored, then and in every such case the vestry or board may cause the work to be done, and the expenses thereof shall be paid by the person who has so offended.

Where no default found expenses to be paid by vestry or board.

84. If such drain, watercloset, privy, cesspool, or water supply or water supply apparatus, or other connected works and apparatus, be found on inspection as aforesaid to be made to the satisfaction of the vestry or board, and in proper order and condition, they shall cause the same to be reinstated and made good as soon as may be, and the expenses of examination, reinstating, and making good such drain, watercloset, privy, cesspool or other works or apparatus, as aforesaid, shall be defrayed by the vestry or board, and full compensation shall be made by them for all damages or injuries done or occasioned by the examination of any such drain, watercloset, privy, cesspool, or other works or apparatus as aforesaid.

Vestry or district board to cause drains, &c., to be put into proper condition, &c., where necessary.

85. If, upon such inspection as aforesaid, any drain, watercloset, privy, or cesspool appear to be in bad order and condition, or to require cleansing, alteration, or amendment, or to be filled up, the vestry or board shall cause notice in writing to be given to the owner or occupier of the premises upon or in respect of which the inspection was made, requiring him forthwith, or within such reasonable time as shall be specified in such notice, to do the necessary works; and if such notice be not complied with by the person to whom it is given, the vestry or board may, if they think fit, execute such works, and the expenses incurred by them in so doing shall be paid to them by the owner or occupier of the premises.



86. Every vestry and district board shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered or filled up, all ponds, pools, open ditches, sewers, drains and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, which may be situate in their parish or district; and they shall cause written notice to be given to the person causing any such nuisance, or to the owner or occupier of any premises whereon the same exists, requiring him, within a time to be specified in such notice, to drain, cleanse, cover, or fill up such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge of such filth, water, matter, or thing, or to do such other works as the case may require; and if the person to whom such notice is given fail to comply therewith, the vestry or board shall execute such works as may be necessary for the abatement of such nuisance, and may recover the expenses thereby incurred from the owner of the premises in manner hereinafter mentioned: Provided always, that it shall be lawful for such vestry or board, where they think it reasonable, to defray all or any portion of such expenses, as expenses of sewerage are to be defrayed under this Act: Provided also, that where any work of any vestry or district board done or required to be done in pursuance of the provisions of this Act interferes with or prejudicially affects any ancient mill, or any right connected therewith, or other right to the use of water, full compensation shall be made to all persons sustaining damage thereby, in manner hereinafter provided, or it shall be lawful for the vestry or board, if they think fit, to contract for the purchase of such mill, or any such right connected therewith, or other right to the use of water; and the provisions of this Act with respect to the purchases by the vestry or board hereinafter authorized shall be applicable to every such purchase as aforesaid.

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Vestry and district board to cause offensive ditches, drains, &c., to be cleansed or covered.

Where works interfere with any ancient mill, &c., compensation to be made, or rights therein purchased.

87. It shall be lawful for any vestry or district board, where they think fit, to cause the ditches at the sides of or across public roads and byeways and public footways to be filled up, and to substitute pipe or other drains alongside or across such roads and ways, with appropriate shoots and means of conveying water from such roads and ways therinto, and from time to

Power to vestries and district boards to fill up ditches by the side of roads, and substitute pipes.



## Appendix.

time to repair and amend the same; and the surface of land gained by filling up such ditches may, if the vestry or board so think fit and direct, be thrown into such roads and ways, and be repairable as part thereof, and be under the control of the surveyors of the highways, or other person in charge of such roads, byeways, or footways.

Power to vestries and district boards to provide public conveniences.

88. It shall be lawful for every vestry and district board to provide and maintain urinals, waterclosets, privies, and like conveniences, in situations where they deem such accommodation to be required, and to supply the same with water, and to defray the expense thereof, and any damage occasioned to any person by the erection thereof, and the expense of keeping the same in good order, as expenses of sewerage, are to be defrayed under this Act.

\* \* \* \* \*

Vestry or district board to cause streets to be paved.

98. It shall be lawful for every vestry and district board from time to time, to cause all or any of the streets within their parish or district, or any part thereof respectively, to be paved or repaired when and as often and in such form and manner and with such materials as such vestry or board think fit, and to cause the ground or soil thereof to be raised or lowered, and the course of the channels running in, into, or through the same to be turned or altered, in such manner as they think proper, and to alter the position of any mains or pipes in or under such street, such alteration to be made subject to the approval of the engineer of the company to which such mains or pipes belong.

Owners possessing freehold of courts, &c., to pave the same.

99. Provided always, that whenever the freehold of any court, passage, or public place, not being a thoroughfare, is vested in the owner of any adjoining house, the paving of such court, passage, or public place shall be done by such owner, if deemed expedient or necessary by the vestry or district board.

Owners of courts to drain them, and keep the pavement, &c., in repair.

100. The owner of any such court, passage, or public place, not being a thoroughfare, shall, if required by the vestry or district board of the parish or district in which the same is situate, to the satisfaction of such vestry or district board, sufficiently



## Appendix.

pave, cover the surface of, or repair the same, and lay, at a proper level, through, over, under, or along such part thereof as such vestry or board may require, a drain, channell, or gutter, and keep such pavement or covering, and drain, channel, or gutter, in good repair, to the satisfaction of such vestry or board; and if any such owner of any court, passage, or public place, not being a thoroughfare, do not sufficiently pave or cover the same as aforesaid, or do not lay down therein such drain, channel, or gutter, or do not repair the same respectively, to the satisfaction of such vestry or board, within fourteen days after notice in writing requiring him so to do has been given to him by such vestry or board, every such person so offending shall forfeit and pay any sum not exceeding 5*l*.

Penalty on  
owners for  
neglect.

101. No vault, arch, or cellar shall be made under any street without the consent of the vestry or district board of the parish or district in which the same is situate; and all such vaults, arches, and cellars hereafter to be made within any parish or district mentioned in either of the schedules (A.) and (B.) to this Act shall be substantially made, and so as not to interfere or communicate with any drain or sewer under the control of any vestry or district board, or of the metropolitan board of works, without their consents respectively first obtained; and if any vault, arch, or cellar be made contrary to this provision, it shall be lawful for the vestry or district board, or for the metropolitan board of works, to fill up or alter the same, and the expenses incurred thereby shall be paid by the owner of such vault, arch, or cellar.

Vaults and  
cellars under  
streets not to be  
made without  
the consent of  
the vestry or  
board.

102. All vaults, arches, and cellars made either before or after the commencement of this Act under any street in any parish or district mentioned in either of the schedules (A.) and (B.) to this Act, and all openings into the same in any such street, shall be repaired and kept in proper order by the owners or occupiers of the houses or buildings to which the same respectively belong; and in case any such vault, arch, or cellar be at any time out of repair, it shall be lawful for the vestry or district board of such parish or district to cause the same to be repaired and put it into good order, and to recover

Vaults, &c..  
under streets  
to be repaired  
by owners  
or occupiers.



# Appendix.

Provisions as to the occupation of underground rooms as dwellings.

the expenses thereof from such owner in the manner herein-after provided.

103. Any room of a house the surface of a floor of which room is more than three feet below the surface of the footway of the adjoining street, and any cellar, where such room or cellar is or has been occupied separately as a dwelling at or before the time of the passing of this Act, may continue to be so let or occupied if it possess the following requisites ; that is to say—

If there be an area not less than three feet wide in every part from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back, or external side thereof, and extending the full length of such side :

If such area, to the extent of at least five feet long and two feet six inches wide, be in front of the window of such room or cellar, and be open or covered only with open iron gratings :

If there be in every such room or cellar an open fireplace, with proper flue therefrom :

If there be a window opening of at least nine superficial feet in area, which window opening must be fitted with a frame filled in with glazed sashes, of which at the least four and a half superficial feet must be made to open for ventilation :

And no such room nor any cellar not so let or occupied as aforesaid at or before the time of the passing of this Act shall be so let or occupied unless it possesses the following requisites ; that is to say—

Unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof :

Unless the same be at least one foot of its height above the surface of the footway of the street adjoining or nearest to the same :

Unless there be outside of and adjoining the same room or cellar, and extending along the entire frontage thereof and upwards, from six inches below the level of the floor thereof up to the surface of the said footway, an open area at least three feet wide in every part :

Unless the same be effectually drained and secured against the rise of effluvia from any sewer or drain :



Unless there be appurtenant to such room or cellar the use of a watercloset or privy, and an ashpit furnished with proper doors and coverings kept and provided according to the provisions of this Act :

Unless the same have a fireplace with a proper chimney or flue :

Unless the same have an external glazed window of at least nine superficial feet in area clear of the frame and made to open in such manner as is approved by the surveyor of the metropolitan board of works :

Provided always, that in any area adjoining a room or cellar there may be placed steps necessary for access to such room or cellar and over or across any such area there may be steps necessary for access to any building above the room or cellar to which such area adjoins, if the steps in such respective cases be so placed as not to be over or across any such external window :

And whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, any room or cellar contrary to this Act, shall be liable for every such offence to a penalty not exceeding 20s. for every day during which the same continues to be so let or occupied ; and every room or cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Act ; and every district surveyor acting under the Act of the session holden in the seventh and eighth years of Her Majesty, chapter eighty-four, or under any Act repealing or amending the same, shall, without any fee or reward, report periodically, and otherwise, as the said metropolitan board may order, to such board all cases in which rooms or cellars are occupied contrary to this enactment in the district of such surveyor, and also to the respective vestries and district boards all such cases occurring within such parts of his district as may be within their respective parishes and districts ; but nothing herein contained shall be construed to disable other persons from enforcing this enactment, and taking proceedings for penalties thereunder.

104. For the purpose of enforcing the enactment lastly hereinbefore contained, it shall be lawful for any such district surveyor, or for any other person, having reasonable grounds for believing that any room or cellar is occupied contrary to

Power of district surveyors to enter under-ground rooms and cellars.



## Appendix.

If admission  
refused, justice  
may issue an  
order

Provisions  
for paving new  
streets.

such enactment, to demand admission to inspect the same at any time between nine o'clock in the morning and six o'clock in the evening; and if admission be not granted, any justice having jurisdiction in the place where such room or cellar is situate may, on oath before him of belief that such room or cellar is occupied contrary to the said enactment, by order under his hand authorize such district surveyor or other person to enter into and inspect such room or cellar between the hours aforesaid.

105. In case the owners of the houses forming the greater part of any new street laid out or made, or hereafter to be laid out or made, which is not paved to the satisfaction of the vestry or district board of the parish or district in which such street is situate, be desirous of having the same paved, as hereinafter mentioned, or if such vestry or board deem it necessary or expedient that the same should be so paved, then and in either of such cases such vestry or board shall well and sufficiently pave the same, either throughout the whole breadth of the carriage-way and footpaths thereof, or any part of such breadth, and from time to time keep such pavement in good and sufficient repair; and the owners of the houses forming such street shall, on demand, pay to such vestry or board the amount of the estimated expenses of providing and laying such pavement (such amount to be determined by the surveyor for the time being of the vestry or board); and in case such estimated expenses exceed the actual expenses of such paving, then the difference between such estimated expenses and such actual expenses shall be repaid by the said vestry or board to the owners of houses by whom the said sum of money has been paid; and in case the said estimated expenses be less than the actual expenses of such paving, then the owners of the said houses shall, on demand, pay to the said vestry or board such further sum of money as, together with the sum already paid, amounts to such actual expenses.

As to what is a "new street," see 25 & 26 Viet. c. 102, s. 112, *post*, and note thereto.

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Streets not  
to be broken up,  
except under the  
superintendence

110. Whenever it is necessary, from any cause whatever, for any company or person to break up or open the pavement, surface, face, or soil of any street, such street and the pavement, surface,



and soil thereof, shall be broken up and opened under the superintendence of the vestry or district board of the parish or district in which the same is situate, and in such manner, and as regards gas companies at such time, as they shall direct: and such company or person shall with all convenient speed complete the work on account of which the same is broken up or opened, and fill in the ground and make good the pavement or surface or soil so broken up or opened, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or surface or soil is so broken up or opened to be fenced and guarded, and shall set up and maintain upon or against the part of the pavement, surface, or soil so broken up or opened a sufficient light during every night that such pavement or surface or soil is continued open or broken up.

## Appendix.

of vestry or board.

Streets broken up to be reinstated without delay.

111. If any company or person authorized to break up or open any of the pavement or surface of any street, for the purpose of laying, altering, or repairing any gas, water, or other pipe, or other lawful cause, do not with due diligence cause the ground to be filled in, and the pavement to be reinstated, and the surface to be made good, in a proper and substantial manner, or do not in the meantime fence and guard the same, and affix and maintain lights during the night near to the places where any ground is open, so as to prevent any accident, every such company or other person so offending shall for every such offence forfeit a sum not exceeding 5*l.*, and also a further sum not exceeding 40*s.*, for every day during which such offence continues; and no such pavement shall be considered to have been reinstated in a proper and substantial manner by any such company or other person unless the same have been reinstated with the same or similar materials of the like quality and thickness, and cemented and bound together in the same or in an equally substantial manner, as those of which it was composed, in such manner as is satisfactory to the vestry or board.

Penalty on persons taking up pavements neglecting to reinstate them, and to place lights during the night-time to prevent accidents.

\* \* \* \* \*

119. If any porch, shed, projecting window, step, cellar door or window, or steps leading into any cellar or otherwise, lamp, lamp post, lamp iron, sign, sign post, sign iron, show board, window shutter, wall, gate, fence, or opening, or any other pro-

Owners, &c., to remove future projections, on notice from vestry or district board.



## Appendix.

Penalty for neglect.

jection or obstruction placed or made against or in front of any house or building after the commencement of this Act, shall be an annoyance, in consequence of the same projecting into or being made in or endangering or rendering less commodious the passage along any street in their parish or district, it shall be lawful for the vestry or district board to give notice in writing to the owner or occupier of such house or building to remove such projection or obstruction, or to alter the same, in such manner as the vestry or board think fit; and such owner or occupier shall within fourteen days after the service of such notice upon him remove such projection or obstruction, or alter the same in the manner directed by the vestry or board; and if the owner or occupier of any such house or building neglect or refuse, within fourteen days after such notice, to remove such projection or obstruction, or to alter the same, in the manner directed by the vestry or board, he shall forfeit any sum not exceeding 5*l.*, and a further sum not exceeding 40*s.* for every day during which such projection or obstruction continues after the expiration of such fourteen days from the time when he may be convicted of any offence contrary to the provisions hereof.

Vestry or district board may remove existing projections, and make compensation for the same.

120. It shall be lawful for every vestry and district board, if any projection or obstruction which has been placed or made against or in front of any house or building in any such street before the commencement of this Act shall be an annoyance as aforesaid, to cause the same to be removed or altered as they think fit: Provided always, that the vestry or board shall give notice in writing of such intended removal or alteration to the owner or occupier against or in front of whose house or building such projection or obstruction shall be, seven days before such removal or alteration shall be commenced, and shall make reasonable compensation to every person who shall incur any loss or damage by such removal, excepting in cases where the obstruction or projection may now be removable under any Act, in which case no compensation shall be made.

Boards to be erected during repairs.

121. Every person who shall build or begin to build, or to take down or begin to take down, any house, building, or wall, or alter or repair, or begin to alter or repair, the outward part



of any house, building, or wall, shall, in all cases in which the footway is thereby obstructed or rendered inconvenient, cause to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same, to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence, in such cases as aforesaid, with such platform and handrail, standing and in good condition, to the satisfaction of the vestry or district board of the parish or district in which such house, building, or wall is situate, during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same is necessary to prevent accidents, cause such hoard or fence to be well lighted during the night; and every such person who fails to put up such hoard or fence and such platform, with such handrail as aforesaid, or who does not, whilst the said hoard or fence is standing, keep the same well lighted during the night, shall for every such offence forfeit a sum not exceeding 5*l.*, and a further sum not exceeding 40*s.* for every day during the continuance of such default.

## Appendix.

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Penalty on not erecting hoards.

122. It shall not be lawful for any person to erect or set up in any street any hoard or fence or scaffold for any purpose whatever, or any posts, bars, rails, boards, or other things by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a license in writing first had and obtained from the clerk or surveyor of the vestry or district board of the parish or district in which such street is situate; and every such license shall state the place where and the purpose for which such hoard or fence, scaffold or inclosure, is to be set up or made, and the size thereof, and the time for which it is to be permitted to continue.

No hoard to be erected without license from vestry or district board.

123. If any person erect or set up in any street any hoard or fence or scaffold for any purpose whatever, or any posts, bars, rails, boards, or other things by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a license from the vestry or district board, or do any such act as aforesaid in any other manner than as permitted by such license, or continue the same beyond the time stated in such license, or fail to keep any hoard, fence, platform, or handrail in good repair, he shall for every such offence

If hoard be erected or materials be deposited in any manner otherwise than to the satisfaction of the vestry or district board, the same may be removed.



## Appendix.

forfeit a sum not exceeding 5*l.*, and a further sum not exceeding 40*s.*, for every day during the continuance of such offence; and it shall be lawful for the vestry or board to cause such hoard, fence, senfold, or inclosure, to be pulled down, and the materials thereof, and also all the bricks, mortar, lime, or other building materials, or other matters or things contained within any such inclosure, to be removed and deposited in such place as the vestry or board may think fit, and to be kept until the charges of pulling down and removing the same be paid to the vestry or board; and in case the same be not claimed and the said charges paid within the space of eight days next after such seizure thereof, it shall be lawful for the vestry or board to order the same to be sold, and by and out of the proceeds of such sale to pay such charges, rendering any surplus to the owner or other person by law entitled thereto: and in case the proceeds of such sale be insufficient to cover such charges and the charges of selling and disposing of such materials, matters, and things, the deficiency shall be repaid by the owner of such materials, matters, and things to the vestry or district board, on demand.

Providing  
against acci-  
dents in laying  
out new streets,  
&c.

124. Every person laying out or opening any new street, or building therein, shall, during the operations necessary for forming such new street, or for building therein, take all such precautions for guarding against injury to the passengers along such street as may be directed by the vestry or district board within which such operations are being carried on; and if any person fail to comply with the directions of such vestry or district board within such time as may be limited by them, such vestry or district board may do whatever may be necessary for carrying the same into effect, and the expenses thereby incurred shall be repaid to such vestry or district board by the person laying out or opening such new street or building therein as aforesaid, and shall be recoverable by them from such person in manner provided by this Act.

\* \* \* \* \*

Previous notice  
to be given.

153. The metropolitan board of works, before applying for the consent of the secretary of state for taking land, or any right or easement in or over land, compulsorily, as aforesaid, shall publish, once at the least in each of four consecutive weeks, in one of the daily newspapers published in the metropolis, an



advertisement describing the nature of the works in respect of which the land, right, or easement is proposed to be taken, naming a place where a plan of the proposed works is open for inspection at all reasonable hours, and stating the quantity of land or the particulars of the right or easement that they require for the purpose of such works, and shall serve a notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of the land intended to be taken, or of the land in or over which such right or easement is intended to be taken, such service to be made four weeks previously to the application to such secretary of state, and such notice shall state the particulars of the land, right, or easement so required, and that the metropolitan board are willing to treat for the purchase thereof, and as to the compensation to be made for the damage that may be sustained by reason of the proposed works.

Appendix.

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*Byelaws.*

202. The metropolitan board of works and every district board and vestry respectively may from time to time make, alter, and repeal byelaws for all or any of the purposes following; (that is to say,) for regulating the business and proceedings at their meetings and of committees appointed by them, the appointment and removal of their officers and servants, and the duties, conduct, and remuneration of such officers and servants; and the said metropolitan board may also from time to time make, alter, and repeal byelaws for regulating the plans, level, width, surface inclination, and the material of the pavement and roadway of new streets and roads, and the plans and level of sites for buildings, and for regulating the dimensions, form, and mode of construction, and the keeping, cleansing, and repairing of the pipes, drains, and other means of communicating with sewers, and the traps and apparatus connected therewith; for the emptying, cleansing, closing, and filling up of cesspools and privies; and for other works of cleansing, and of removing and disposing of refuse, and for regulating the form of appeal and mode of proceeding thereon; and generally for carrying into effect the purposes of this Act; and every such board and vestry may thereby impose such reasonable penalties as they think fit, not exceeding 40s., for each breach of such byelaws,

Power to metropolitan board of works to make bye-laws.

Penalty for breach of bye-laws.



## Appendix.

Power of Justices to remit penalties.

and in case of a continuing offence a further penalty not exceeding 20s. for each day after notice of the offence from the board or vestry: Provided always, that under every such byelaw it shall be lawful for the justices before whom any penalty imposed thereby is sought to be recovered to order the whole or part only of such penalty to be paid, or to remit the whole penalty: Provided also, that no byelaws shall be repugnant to the laws of England or to the provisions of this Act; and that no byelaw shall be of any force or effect unless and until the same be submitted to and confirmed at a subsequent meeting of the board or vestry: Provided also that no penalty shall be imposed by any such byelaw, unless the same be approved of by one of Her Majesty's principal secretaries of state.

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*Provisions for Protection of Property and Works of Metropolitan and District Boards and Vestries, and preventing Obstruction in Execution of Works.*

Buildings not to be made over sewers without consent.

204. No building shall be erected in, over, or under any sewer vested in the metropolitan board of works, or in any vestry or district board, without their consent first obtained in writing, and if any building be erected contrary to this provision the board or vestry in whom such sewer is vested may demolish the same, and the expenses incurred thereby shall be paid by the person erecting such building.

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Penalties, &c., to be recovered as provided by 11 & 12 Vict. c. 43.

227. Every penalty or forfeiture imposed by this Act, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recoverable by summary proceedings before any justice in manner provided by the Act of the session holden in the eleventh and twelfth years of Her Majesty, chapter forty-three, "to Facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders."

\* \* \* \* \*

*Interpretation and Commencement of Act.*

Interpretation of terms: "the metropolis:"

250. In the construction of this Act "the metropolis" shall be deemed to include the City of London, and the parishes and places mentioned in the schedules (A.), (B.), and (C.) to this Act;



“the City of London” shall be deemed to include all parts now within the jurisdiction of the commissioners of sewers for the City of London: and the word “parish” shall include any place mentioned in schedule (A.) to this Act, and any place or combination of places mentioned in schedule (B.) to this Act, for which one or more member or members is or are to be elected to any district board; the expression “the overseers of the poor” shall include any persons authorized to make and collect or cause to be collected the rate for the relief of the poor in any parish; any expression referring to any rate or rates raised under this Act by the metropolitan board of works or any vestry or district board shall mean the sums and rates authorized to be raised by the said metropolitan board and the sums authorized to be raised by any vestry and district board respectively; the word “owner” shall, except for the purpose of the provision of this Act requiring notice to be served on owners or reputed owners of land, before application to one of Her Majesty’s principal secretaries of state for his consent to exercise powers of taking land, or any right or easement in or over land compulsorily, mean the person for the time being receiving the rack-rent of the lands or premises in connexion with which the said word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack-rent; the word “street” shall apply to and include any highway (except the carriage-way of any turnpike road) and any road, bridge (not being a county bridge), lane, footway, square, court, alley, passage, whether a thoroughfare or not, and a part of any such highway, road, bridge, lane, footway, square, court, alley, or passage; the word “drain” shall mean and include any drain of and used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed, and shall also include any drain for draining any group or block of houses by a combined operation under the order of any vestry or district board; and the word “sewer” shall mean and include sewers and drains of every description, except drains to which the word “drain,” interpreted as aforesaid, applies; and the word “ashpit” shall include “dustbin.”

## Appendix.

“the City of London:”

“Parish:”

“Overseers of the poor:”

“Rates:”

“Owner:”

“Street:”

“Drain:”

“Sewer:”

“Ashpit:”



## Appendix.

25 &amp; 26 VICT. CAP. 102.

*An Act to amend the Metropolis Local Management Act.*

[7th August, 1862.]

\* \* \* \* \*

Contribution to  
cost of main  
sewers and  
sewers built  
since 1st Janu-  
ary, 1853, or  
hereafter to be  
built.

59. The provisions contained in the eightieth section of the firstly-recited Act, empowering vestries and district boards to order, at their discretion, under the circumstances therein mentioned, such sums as they shall deem just to be paid and contributed by the owners of houses towards the expense of the construction of sewers into which drains from such houses shall be made or branched, shall be extended, and the same are hereby extended and made applicable to the metropolitan board of works with respect to houses draining into main sewers constructed at the expense of any person or body other than any commissioners of sewers, and which are vested in the metropolitan board; and the same provisions are hereby extended and made applicable to all sewers within the limits of the metropolis as defined by the firstly-recited Act, built since the 1st day of January, 1856, or which may hereafter be built at the expense of any person or body other than the metropolitan board of works, or any vestry, district board, or other body having control over sewers within the metropolis, into which house drains may be made or branched; and the said metropolitan board, vestry, district board, or other body, as the case may be, may at their discretion accept payment of contribution from the owners of houses draining into such sewers respectively, either in one sum or by instalments within any period not exceeding twenty years, with interest after a rate not exceeding 5*l.* by the hundred by the year, as the said board, vestry, or other body shall in each case determine, and shall on receipt of any such contribution or instalment pay over the same to the person or body entitled thereto; and every sum payable to the said board, vestry, or other body by way of contribution to the construction of sewers shall be recoverable from the present or any future owner of the said premises either by action at law or before a justice of the peace in a summary manner, at the option of the board or vestry: Provided that nothing herein contained shall prejudice or affect the right of vestries and district boards to demand and recover from the owners of houses and land the sums charged upon them by such vestry and district boards respectively under the provisions contained in this Act.

\* \* \* \* \*



61. The seventy-seventh section of the firstly-recited Act is hereby repealed; and in lieu thereof be it enacted, that no person shall make or branch any sewer or drain, or make any opening into any sewer vested in the metropolitan board of works, or in any vestry or district board, without the previous consent in writing of such board or vestry: Provided that it shall be lawful for any person, with such consent, at his own expense, to make or branch any drain into any sewer vested in such board or vestry, or authorized to be made by them or either of them under the firstly-recited Act or this Act, such drain being of such size, materials and other conditions, and branched into such sewer in such manner and form of communication in all respects, as the board or vestry shall direct or appoint: Provided also, that where any contribution to the cost of a sewer is payable in respect of drainage into the same, it shall not be lawful for any person to make or branch any drain into such sewer, except in conformity with the directions of the board or vestry in whom the same shall be vested with respect to payment of contribution under the provisions contained in the firstly-recited Act and this Act in that behalf; and in case any person, without the consent of the said metropolitan board, district board, or vestry as aforesaid, make or branch, or cause to be made or branched, any sewer or drain, or make any opening into any of the sewers vested in any such board or vestry, or authorized to be made by them as aforesaid, or if any person make or branch, or cause to be made or branched, any drain of a different construction, size, material, or other conditions, or in another manner or form of communication than shall be directed or appointed by such board or vestry, every person so offending shall for every such offence forfeit a sum not exceeding 50*l.*; and the board or vestry may cut off the connexion between such drain and their sewer, or if they shall see fit execute the necessary works for making the said drain conformable to their regulations or directions at the expense of the person making such drain or causing the same to be made, such expenses to be recovered either by action at law or in a summary manner before a justice of the peace, at the option of the board or vestry.

## Appendix.

Regulations  
respecting open-  
ings into sewers.

62. Every district surveyor required to report by the one hundred and third section of the firstly-recited Act shall, without fee or reward, report to the metropolitan board, and to every vestry and district board in the district in which such surveyor

Reports as to  
underground  
rooms occupied  
as dwellings.



## Appendix.

may act, in the months of June and December in each year, and at all other times when he shall be required so to do by any such board or vestry, all underground rooms or cellars occupied as dwellings within the meaning of the first-recited Act that are not built or constructed in conformity with the rules contained in the said section, and shall in such report set forth the exact locality in which such underground rooms or cellars are situate; and in any proceedings taken to recover the penalty under the said one hundred and third section of the said Act, such evidence as may give rise to a probable presumption that some person passes the night in such room or cellar shall be evidence, until the contrary be made to appear, that such has been the case.

Extension of  
time under  
sect. 76 of 18  
& 19 Vict. c. 120,  
for making  
orders by  
vestries and  
district boards.

63. Whereas by the seventy-sixth section of the firstly-recited Act, it is provided that the vestry or district board shall make their order in relation to the matters therein referred to, and cause the same to be notified to the person from whom the notice mentioned in the said section was received within seven days after the receipt of such notice, and it is expedient that the time for making such order should be extended: Be it therefore enacted, that where any notice shall have been given to any vestry or district board pursuant to the said section, it shall be lawful for the surveyor of such vestry or board, if he shall deem it necessary and proper so to do, within three days after the receipt of such notice by the vestry or district board, by writing under his hand directed to and served upon the person giving such notice, to require that the building or works referred to therein shall not be proceeded with until after the then next meeting of the said vestry or district board, and until their directions in reference thereto shall have been notified to such person, provided that the order of the said vestry or district board shall be made and notified to the said person at the latest within fifteen days after the receipt of such notice by the vestry or district board; and in case any person shall proceed with any building or works contrary to this enactment he shall forfeit and pay to the vestry or district board a sum not exceeding 5*l.*, and also a further sum of 40*s.* for every day during which such offence shall continue, to be recovered by action at law or in a summary manner at the option of the vestry or board.

Where parties  
neglect to carry  
out works

64. Whereas by the seventy-third, seventy-fourth, seventy-sixth, eighty-first, eighty-fifth, and eighty-sixth sections of the



## Appendix.

pursuant to order of vestry, the vestry may recover penalty or do the works.

firstly-recited Act, certain works, matters, and things are required to be constructed, made, or executed on the requisition of vestries and district boards by the owners or occupiers of the premises therein referred to; and in case any such owner or occupier refuse or neglect to commence, proceed with, or complete the same, as the case may be, the vestry or district board are authorized to perform and execute such works, matters, and things, and recover the costs incurred thereby in manner therein provided: Be it enacted, that in case of any such neglect or default by any person or persons to comply with the order of any vestry or district board to execute any works, matters, or things under any of the said provisions, the person or persons so offending shall forfeit and pay to the vestry or district board a sum not exceeding 5*l.*, and also a further sum not exceeding 40*s.* for every day during which such offence shall continue, to be recovered by action at law or before a justice of the peace in a summary manner, at the option of the vestry or district board; and the vestry or district board may at their discretion either execute or perform any such works, matters, or things, and recover the costs and expenses thereof from the owner of the property as aforesaid, or proceed for and recover the said penalty or penalties; but nothing herein contained shall render any person or persons liable to be proceeded against for the penalty as well as for the costs and expenses of the works.

65. The penalties declared by the firstly-recited Act in the case of persons committing the offences mentioned therein are hereby extended and made applicable to all persons causing the commission of any such offences, or by whose order or direction any such offences shall have been committed.

Penalties in 18 & 19 Vict. c. 120, extended to persons causing offences.

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67. If it shall appear to any vestry or district board that any house within their respective parishes or districts is without a proper supply of water, and that such supply can be furnished to such house at a rate not exceeding 3*d.* per week, conformably with the scale of rates authorized to be charged by any water company within the metropolis as defined by the firstly-recited Act, the said vestry or district board may give notice in writing to the owner or occupier of such house, requiring him, within a time specified therein, to obtain such supply, and to do all such

Vestries, &c., may compel supply of water for houses.



# Appendix.

works as may be necessary for that purpose ; and if such notice be not complied with, the said vestry or district board shall do such works and recover the expenses thereof from the owner of the premises as hereinafter provided ; and any water company shall, upon the requisition of such vestry or board, supply with water such house, and the rates for the supply of such house or houses as aforesaid shall be due and payable by the said owner and shall be recovered by the company as if such owner had contracted with the company for the supply of such water.

In any case where it shall appear to any vestry or district board that the existing supply of water to any house within their respective parishes or districts would be sufficient for such house if the same were inhabited by a lesser number of persons, but is insufficient by reason that the same is inhabited by numerous persons (being more than one single family), it shall be lawful for such vestry or district board to give notice in writing to the occupier of such house, requiring him, within a time specified therein, to obtain such further supply (not exceeding a supply at the rate of thirty gallons per day for each person) as to them shall appear necessary, and to do all such works as may be necessary for that purpose ; and if such notice be not complied with within the time therein specified, it shall be lawful to take proceedings for overcrowding, in the manner provided by the " Nuisances Removal Act for England, 1855 ; " and upon proof of the fact that the water supply is not sufficient by reason of the number of persons inhabiting the said house (being more than one family), it shall be lawful for the justices to make the like order and to inflict the like penalty as in any other case of overcrowding.

Penalty on persons placing buildings or encroachments on sewers.

68. Every person who shall knowingly erect or place any building, wall, bridge, fence, obstruction, annoyance, or encroachment in, upon, over, or under any sewer under the jurisdiction of the metropolitan board of works, or of any vestry or district board, and every person obstructing, filling in, or diverting any sewer or drain under the jurisdiction, survey, or control of the metropolitan board, or of any vestry or district board, without the previous consent in writing of the board or vestry in whom the same may be vested, shall, in addition to any other proceeding to which he may be liable therefor, forfeit and pay to such



## Appendix.

respective board or vestry a sum not exceeding 20*l.* for every such offence; and the board or vestry may demolish and remove any such building, wall, bridge, fence, obstruction, annoyance, or encroachment, and perform any works necessary for restoring or reinstating the sewer or other work or thing damaged; and the party erecting such building, wall, bridge, fence, or causing such obstruction, annoyance, or encroachment, shall also pay the expense of removing and abating them respectively, and of re-opening, restoring, repairing, or reinstating any sewer or drain obstructed, filled in, closed up, or diverted; and in case of a continuing offence in any of the cases aforesaid, the offender shall be liable to a further penalty, not exceeding 5*l.*, for each day after notice thereof from the metropolitan board of works, or from the vestry or district board, to be recovered by action at law or before any justice of the peace by a summary proceeding, at the option of the board or vestry: Provided always, that nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any buildings or works under which a sewer or drain has been constructed, but so, nevertheless, that such building or works shall not injure or obstruct the said sewer or drain.

69. Any person who shall take up, remove, demolish, or otherwise interfere with any sewer or part of a sewer vested in the metropolitan board of works, or in any vestry or district board, without the previous permission in writing of such board or vestry, or who shall wilfully damage any sewer, bank, defence, wall, penstock, grating, gully, side entrance, tide valve, flap, work, or thing vested in the metropolitan board or any vestry or district board, or do any act by which the drainage of the metropolis or any part thereof may be obstructed or injured, shall for every such offence forfeit and pay to the said metropolitan board of works, or to the vestry or district board aggrieved by any such act, for every such offence a sum not exceeding 20*l.*, and shall also pay to such board or vestry all the expenses of repairing, restoring, reinstating, or amending any sewer or other work or thing so taken up, removed, demolished, damaged, or interfered with, to be recovered by action at law or before a justice of the peace by a summary proceeding, at the option of the board or vestry.

Penalty on  
persons inter-  
fering with  
sewers.



## Appendix.

Vestries in schedule (A.) and district boards empowered to provide and maintain drinking fountains.

70. The vestry of any parish mentioned in schedule (A.) to the said firstly-recited Act and any district board may provide and maintain drinking fountains in such convenient and suitable situations as they may deem proper, and may undertake the maintenance of any drinking fountains already erected within such parish or district, and supply the same with water and defray the expenses thereof; and any expenses incurred by any vestry or district board in providing or maintaining any such fountains or supplying the same with water shall be paid out of the general rate authorized to be raised and levied under the firstly-recited Act; and any person guilty of wilfully fouling the water in any drinking fountain so erected or maintained, or of wilfully damaging any of the said fountains, or any part thereof, shall forfeit and pay to such vestry or district board for every such offence a sum not exceeding 5*l.*, to be recovered by a summary proceeding, and shall also pay to such vestry or district board the expenses of repairing or reinstating any such fountain or any part thereof so injured as aforesaid.

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Buildings projecting beyond general line when taken down to be set back.

74. In case any building, situated within any of the parishes, districts, or places comprised in the schedules of the firstly-recited Act, which shall in any part thereof project beyond the general line of the street in which the same may be situate, or beyond the front of the building, wall, or railing on either side thereof, shall at any time be taken down to an extent exceeding one-half of such building, such half to be measured in cubic feet, or shall be destroyed by fire or other casualty, or demolished, pulled down, or removed from any other cause to the extent aforesaid, it shall be lawful for the metropolitan board of works to require the same to be set back to such a line and in such a manner for the improvement of any street as the said board shall direct; provided that the said board shall make compensation to the owner of such building for any damage and expenses which he may sustain and incur thereby: Provided also, that this section shall not apply to any building in the places mentioned in schedule (C.) to the Metropolis Local Management Act which does not abut upon any public street or place.



75.

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No building, structure, or erection shall, without the consent in writing of the metropolitan board of works, be erected beyond the general line of buildings in any street, place, or row of houses in which the same is situate in case the distance of such line of buildings from the highway does not exceed fifty feet, or within fifty feet of the highway when the distance of the line of buildings therefrom amounts to or exceeds fifty feet, notwithstanding there being gardens or vacant spaces between the line of buildings and the highway, such general line of buildings to be decided by the superintending architect to the metropolitan board of works for the time being; and in case any building, structure, or erection be erected, or be begun to be erected or raised, without such consent, or contrary to the terms and conditions on which the same may have been granted, it shall be lawful for the vestry of the parish or the board of works for the district in which such building or erection is situate to cause to be made complaint thereof before a justice of the peace, who shall thereupon issue a summons requiring the owner or occupier of the premises, or the builder or person engaged in any work contrary to this enactment, to appear at a time and place to be stated in the summons to answer such complaint; and if at the time and place appointed in such summons the said complaint shall be proved to the satisfaction of the justice before whom the same shall be heard, such justice shall make an order in writing on such owner or occupier, builder, or person, directing the demolition of any such building or erection, or so much thereof as may be beyond the said general line so fixed as aforesaid, within such time as such justice shall consider reasonable, and shall also make an order for the payment of the costs incurred up to the time of hearing; and in default of the building or erection complained of being demolished within the time limited by the said order, the said vestry or board shall forthwith enter the premises to which the order relates and demolish the building or erection complained of, and do whatever may be necessary to execute the said order, and may also remove the materials to a convenient place, and subsequently sell the same, as they think fit; and all expenses incurred by the said vestry or board in carrying out the said order and in disposal of the said materials may be recovered by the said vestry or board from the owner or

Appendix.

Mode of proceeding with regard to buildings beyond line of street.



**Appendix.** occupier of the said premises, or the builder or person engaged in the work, either by action at law or in a summary manner before a justice of the peace, at the option of the said vestry or board, in manner provided by the two hundred and twenty-seventh section of the firstly-recited Act as to the recovery of penalties.

*Note.*—In determining the general line of buildings under this section, the superintending architect ought to have regard to the frontage of houses which existed previously, and which may be rebuilt, as well as to those still standing: *Auckland (Lord) v. Westminster Local Board of Works*, L. R. 7 Ch. App. 597; 41 L. J. Ch. 723; 26 L. T. (N.S.) 961; 20 W. R. 845. The certificate of the superintending architect is not, however, absolutely conclusive, the magistrate being entitled to judge for himself, whether the line fixed by such certificate is in fact the general line of buildings in the street: *Simpson v. Smith*, L. R. 6 C. P. 87; 40 L. J. M. C. 89; 24 L. T. (N.S.) 100; 19 W. R. 355. Nor does the certificate necessarily create the general line, or the offence of erecting beyond it, nor is it a condition precedent to the finding of the general line, or of the offence. Proceedings under this section, must, therefore, be brought within the six months limited by 11 & 12 Vict. c. 43, s. 11, from the date of the offence and not from the date of the certificate: *Vestry of Paddington v. Snow*, 45 L. T. (N.S.) 475.

The six months' limitation prescribed by sect. 107, *post*, has been held not to apply to proceedings under this section: see the *Vestry of Bermondsey v. Johnson*, L. R. 8 C. P. 441; 42 L. J. M. C. 67; 28 L. T. (N.S.) 665; 21 W. R. 626, where the court differed from the judgment of MALINS, V.-C., in *Bretton v. The Vestry of St. George's, Hanover Square*, L. R. 13 Eq. 339; 41 L. J. Ch. 134; 25 L. T. (N.S.) 552; 20 W. R. 84. In *Reg. v. Lovibond*, 24 L. T. (N.S.) 357; 19 W. R. 753, it was held that an indictment will not lie for an offence under this section.

Conditions as to  
buildings  
beyond line of  
street.

76. The metropolitan board may, in giving consent for any erection beyond the regular line of the buildings in any street, annex any condition to the consent given by the board, and in case such erection shall not be made in accordance with the consent of the board, or be in any manner altered and raised without their consent, the board may enter and demolish or alter the buildings or structure, or any part thereof, and recover all expenses, or may impose any penalty not exceeding 40s., to be summarily recovered for every day during which any building or structure being a contravention of such condition shall exist



after notice from the said board or any officer of the board to remedy the complaint. Appendix.

77. Where any vestry or district board shall, under the powers given by the one hundred and fifth section of the firstly-recited Act, have paved or be about to pave any new street, the owners of the land bounding or abutting on such street shall be liable to contribute to the expenses or estimated expenses of paving the same, as well as the owners of houses therein, provided that it shall be lawful for the vestry or district board to charge the owners of land in a less proportion than the owners of house property, should they deem it just and expedient so to do; and any such costs or expenses, including the cost of paving at the points of intersection of streets, and all other incidental costs and charges, shall be apportioned by the vestry or board, and shall be recoverable either before the work shall be commenced, or during its progress, or after its completion; and it shall be lawful for the vestry or district board at their discretion to accept payment of the amount apportioned or charged in respect of each house or premises by instalments spread over a period not exceeding twenty years, and any such amount shall be recoverable from the present or any future owner of the premises either by action at law or in a summary manner before a justice of the peace, at the option of the vestry or board.

Expenses of  
paving new  
streets.

As to what is a "new street" see sect. 112, *post*, and cases cited in the note thereto.

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82. In every case in which any company or person shall be liable under the firstly-recited Act to reinstate the pavement, surface, or soil of any street under the control of any vestry or district board which may have been broken up or opened, or to repay to such vestry or board the expenses of reinstating the pavement, surface, or soil of any street, every such company or person shall be liable to reinstate the pavement, surface, or soil, or to pay the expenses of reinstating the pavement, surface, or soil of such parts of the street as shall have been so broken up or opened, as well as of the part or parts contiguous thereto which may be affected by the works of such

Reinstatement  
of pavement  
broken up by  
works of com-  
panies, &c.



Appendix. company or person, to the reasonable satisfaction of the surveyor for the time being of the vestry or district having control over the pavements in such parish or district.

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Height of buildings in certain streets.

85. No building, except a church or chapel, shall be erected on the side of any new street of a less width than fifty feet, which shall exceed in height the distance from the external wall or front of such building to the opposite side of the street, without the consent in writing of the metropolitan board of works; nor shall the height of any building so erected be at any time subsequently increased so as to exceed such distance without such consent; and in determining the height of such building the measurement shall be taken from the level of the centre of the street immediately opposite the building up to the parapet or eaves of such building; and any person committing any offence under this enactment shall be liable to a penalty of 5*l.*, and in case of a continuing offence to a further penalty of 40*s.* for every day during which such offence shall continue after notice from the said board, to be recovered by summary proceeding.

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Affixing names of streets by vestries and district boards.

87. The one hundred and forty-first section of the firstly-recited Act is hereby repealed; and in lieu thereof be it enacted, that vestries and district boards shall and may, within the limits of their respective jurisdictions, from time to time cause to be painted or affixed on a conspicuous part of some house or building at or near each end, corner, entrance, or other convenient part of any street in their parish or district, the name of such street, and renew such name whenever it may be obliterated or defaced; and the metropolitan board of works may alter the name of any street to any other name which to such board may seem fit; and before any name is given to any street, notice of the intended name shall be given to the said metropolitan board, and the said board may, by notice in writing given to the person by whom notice of such intended name has been given to them, at any time within one calendar month after receipt of such notice, object to such intended name; and it shall not be lawful to set up

Alteration of names by metropolitan board, and execution of orders by vestries and district boards.



## Appendix.

any name to any new street in the metropolis until the expiration of one calendar month after notice thereof has been given as aforesaid to the said metropolitan board, or to set up any name objected to as aforesaid; and whenever the said metropolitan board shall, under the power hereinbefore given, have ordered or directed an alteration in the name or names of any street, or of any place or row of houses, or in any line of road, they shall transmit a copy of their order directing such alteration to the vestry or district board in whose parish or district such street, place, row of houses, or line of road shall be situate; and such vestry or district board shall thereupon cause to be painted or affixed on a conspicuous part of some house or building, to the satisfaction of the said metropolitan board, at or near each end, corner, entrance, or other convenient part of the said street, place, row of houses, or line of road, the altered name or names specified in the order of the metropolitan board, and shall perform all other necessary acts for giving effect to such order; and it shall be lawful for the said metropolitan board from time to time to order and direct that any row of houses or buildings in any street or in any line of road in the metropolis shall, for the purpose of distinguishing the same, be marked with such numbers or names as they shall deem convenient and proper for that purpose, and which they shall specify in their order in that behalf; and whenever the said metropolitan board have passed any such order as last aforesaid, they shall transmit a copy thereof to the vestry or district board in whose parish or district the said street, place, row of houses, or line of road shall be situate, and it shall thereupon become the duty of such vestry or district board to perform all necessary acts and to take all requisite proceedings for carrying the order of the said metropolitan board into execution, and for that purpose they shall give notice to the owners or occupiers of the houses and buildings in such street, place, row of houses, or line of road to mark their several houses or buildings with such numbers or names as the said metropolitan board shall by their said order have ordered or directed, and to renew the numbers or names of such houses or buildings as often as they are obliterated or defaced; and if any occupier of any such house or building neglect for one week after notice from the said vestry or district board to mark such house or building with such number or name as shall be men-



## Appendix.

tioned and required in the said notice, or to renew the number or name as aforesaid, he shall be liable to a penalty not exceeding 40s., and the said vestry or district board may cause such number or name to be so marked or renewed, and recover the expenses thereof from the owner of such house or building by a summary proceeding before a justice of the peace; and if any person wilfully destroy, pull down, obliterate, or deface the name of any street or line of road in the metropolis, or the name or number of any house or building therein, or paint, affix, or set up any name or number to any house or building contrary to this enactment, he shall for every such offence forfeit a sum not exceeding 40s.; and it shall be lawful for the said vestry or district board to cause such name or number so painted, affixed, or set up contrary to the directions in their said notice to be obliterated or destroyed: Provided always, that the powers conferred by this section upon the metropolitan board shall extend to the city of London and the liberties thereof; and all matters by this section directed and authorized to be done by vestries and district boards shall and may be done within the city of London and the liberties thereof by the commissioners of sewers of the said city and liberties.

Persons omitting to give notice required by section 76 of 18 & 19 Vict. c. 120, liable to penalty.

88. If any person shall, without having given the notice directed by the seventy-sixth section of the firstly-recited Act, begin to lay the foundation of any new house or building within any parish mentioned in schedule (A.) of the said Act, or any district in schedule (B.) of the said Act, or to make any drain for the purpose of draining either directly or indirectly into any sewer under the jurisdiction of the vestry or board of such parish or district, he shall become liable to a penalty for every such offence not exceeding 5*l.*, and to a continuing penalty of 40*s.* for each and every day during which he shall omit to give the notice directed by the said Act.

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Roads, &c., laid out as streets to be of full width of forty feet for carriage traffic, and twenty

98. No existing road, passage, or way being of a less width than forty feet shall be hereafter formed or laid out for building as a street for the purposes of carriage traffic, unless such road, passage, or way be widened to the full width of forty feet, the measurement of the width of such street to be taken half on



either side from the centre or crown of the roadway to the external wall or front of the houses or buildings erected or intended to be erected on each side thereof; but where forecourts or other spaces are intended to be left in front of the houses or buildings, then the width shall be measured up to the fence or boundary dividing or intended to divide such forecourts or spaces from the public way, or for the purposes of foot traffic only, unless such road, passage, or way be widened to the full width of twenty feet, measured as aforesaid, or unless such streets respectively shall be open at both ends, from the ground upwards; and any road, passage, or way hereafter to be formed or laid out for either of the purposes aforesaid shall be deemed to be a new street, and become subject to all the provisions of the recited Acts and this Act, and to the provisions and penalties of and under any byelaws made or to be made in pursuance thereof in relation to sewerage, drainage, or paving, and to width, construction, surface, inclination, and other requirements and particulars.

## Appendix.

feet for foot traffic.

99. Provided that it shall be lawful for the metropolitan board of works to permit the formation of any such street of less width than hereinbefore provided, or with one opening only, should they under any special circumstances deem it equitable and expedient so to do.

Metropolitan board may permit formation of streets of less width, &c.

102. Every penalty or forfeiture imposed by this Act, and made recoverable by a summary proceeding, may be recovered before any justice of the peace in manner provided by the Act of the session holden in the eleventh and twelfth years of Her Majesty, chapter forty-three.

Penalties may be recovered in manner provided by 11 & 12 Vict. c. 43.

104. The provision in the two hundred and twenty-seventh section of the firstly-recited Act for the recovery of penalties and forfeitures imposed by the said Act is hereby extended to any damages, costs, or expenses payable or recoverable under the said recited Acts or this Act; and any such damages, costs, or expenses, the recovery whereof is not otherwise provided for, may be recovered by summary proceedings in manner directed by the said section.

Provisions as to penalties under 227th section of 18 & 19 Vict. c. 120, extended to damages, &c.

105. The two hundred and thirty-fourth section of the firstly-recited Act is hereby repealed; and in lieu thereof be it enacted,

Application of penalties.



## Appendix.

that all penalties or forfeitures payable or recoverable under the firstly-recited Act or this Act, and all penalties or forfeitures recovered by any vestry or district board acting as a local authority for the execution within their respective parish or district of "The Nuisances Removal Act, for England, 1855," shall go and be paid in manner hereinafter mentioned, anything contained in an Act made and passed in the session holden in the second and third years of the reign of Her present Majesty, chapter seventy-one, or in any other Act or Acts to the contrary notwithstanding; that is to say, one half shall go to the informer, and the remainder shall go to the vestry or district board of the parish or district in which the offence was committed; or to the metropolitan board of works, in case the injury shall have been sustained by or the offence committed in respect of that board; or if such vestry or district board or the metropolitan board of works be the informers, then the whole of the penalty recovered shall go to them respectively, and all sums which shall go to or be recovered by any board or vestry on account of any penalty or forfeiture shall be paid to their treasurer, or into such bank to their account as they may direct, and shall be applicable towards the general expenses of such board or vestry; provided that in every case where any board or vestry are liable to any penalty or forfeiture, the whole of such penalty or forfeiture shall go to the informer.

\* \* \* \* \*

Penalties to be  
proceeded for  
within six  
months.

107. The two hundred and thirty-third section of the firstly-recited Act is hereby repealed; and in lieu thereof be it enacted, that no person shall be liable for the payment of any penalty or forfeiture under the recited Acts or this Act, or any byelaw made by virtue thereof, for any offence made cognizable before a justice, unless the complaint respecting such offence have been made before such justice within six months next after the commission or discovery of such offence.

This section only applies to pecuniary penalties or forfeitures: see the case of *The Vestry of Bermondsey v. Johnson*, cited in the note to sect. 75, *ante*, p. 190.

\* \* \* \* \*

Interpretation  
of terms.

112. In the construction of the recited Acts and this Act the term "metropolis" shall be deemed to include the city of London and the parishes and places mentioned in the schedules (A.), (B.), and (C.) to the firstly-recited Act; the word "drain"



## Appendix.

shall be deemed to apply to and include the subject matters specified in the two hundred and fiftieth section of the firstly-recited Act, and also any drain for draining a group or block of houses by a combined operation, laid or constructed before the 1st day of January, 1856, pursuant to the order or direction or with the sanction or approval of the metropolitan commissioners of sewers; the expression "water company" shall mean and include any of the companies enumerated in the twenty-ninth section of the Act of the session of the fifteenth and sixteenth years of the reign of Queen Victoria, chapter eighty-four, for the making better provision respecting the supply of water to the metropolis, and also any other company, board, or commission, association, person, or partnership, corporate or unincorporate, for the time being supplying the metropolis or any part thereof with water for domestic use; the word "cattle" shall include sheep, lambs, and swine; the word "street" shall be deemed to apply to and include the subject matters specified in the two hundred and fiftieth section of the firstly-recited Act, and also any mews and a part thereof; the expression "new street" shall apply to and include all streets hereafter to be formed or laid out, and a part of any such street, and also all streets, the maintenance of the paving and roadway whereof had not, previously to the passing of this Act, been taken into charge and assumed by the commissioners, trustees, surveyors, or other authorities having control of the pavements or highways in the parish or place in which such streets are situate, and a part of any such street, and also all streets partly formed or laid out; the word "pave" shall apply to and include the formation of the roadway or footway of any street; the word "clerk" shall include any officer called or to be called "secretary;" the word "surveyor" shall include any officer called or to be called "engineer;" the word "print" shall apply to and include every mode of taking impressions, whether by letter-press, stereotype, lithography, or otherwise.

The definition of "new street" is not confined to streets dedicated to the public: *Vestry of S. Mary, Islington, v. Barrett*, L. R. 9 Q. B. 278; 43 L. J. M. C. 85; 30 L. T. (N.S.) 11; 22 W. R. 402; and see also *The Brighton Railway Company v. The Vestry of S. Giles, Camberwell*, L. R. 4 Ex. D. 239; 38 L. J. M. C. 186; 41 L. T. (N.S.) 162; and *The North London Railway Company v. The Vestry of S. Mary, Islington*, 27 L. T. (N.S.) 672; 21 W. R. 226.



## Appendix.

## APPENDIX (B).

## THE CITY OF LONDON SEWERS ACT, 1848.

11 &amp; 12 VICT. CAP. CLXIII.

*An Act to provide for the Sanatory Improvement of the City of London and the Liberties thereof, and for the better cleansing, sewerage, paving, and lighting the same.*

[5th September, 1848.]

\* \* \* \* \*

No house to be built without drains constructed to the satisfaction of the commissioners.

62. And be it enacted, that it shall not be lawful to erect any house or other building within the city unless a drain be constructed to the satisfaction of the commissioners, of such materials, of such size, at such level, and with such fall as they shall direct, so that the same shall be available for the drainage of the lowest floor of such building, and also of its areas, water-closets, privies, and offices, (if any,) which drain shall lead from the intended site of such house to such sewer, already made or intended to be constructed near thereto, as the commissioners shall direct and appoint, or if there be no such sewer existing or intended to be constructed within fifty feet of any part of the intended site of such house, then to such covered cesspool or other place, not being under any dwelling house, as the commissioners shall direct.

Notice of buildings to be given to the commissioners before commencing the same.

63. And be it enacted, that before beginning to lay or dig out the foundations of any new house or building within the city, or to rebuild any house or building therein, and also before making any drain for the purpose of draining water directly or indirectly from any land or tenement into any sewer under the jurisdiction of the commissioners, fourteen days notice in writing shall be given to the commissioners, by the person intending to build or re-build such house or building or to make



such drain; and every such foundation shall be laid at such level as is provided by this Act, and under such regulations as the commissioners shall order; and every such branch drain shall be made in such direction, manner, and form, and of such materials and workmanship, as the commissioners shall order, and the making of every such drain shall be under the survey and control of the commissioners; and in default of such notice or if such house, building, or drain shall be begun or erected or made without or in any respect contrary to any order of the commissioners or the provisions of this Act, it shall be lawful for the commissioners to cause such building to be demolished, and to cause such drain to be re-laid, amended, or re-made, as the case may require, and to cause the expenses thereof to be levied and repaid to them by the owner thereof in the manner herein-after provided.

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64. And be it enacted, that whenever any house or building shall be re-built within the city, the level of the lowest floor of such house or building shall be raised sufficiently to allow of the construction of such a drain as is herein-before provided in the case of houses or buildings to be built after the commencement of this Act, and for that purpose the levels shall be taken and determined under the direction of the commissioners; and whenever any house or building shall be taken down within twelve feet of the surface of the ground, for the purpose of being built up again, such building up shall be deemed a rebuilding within the meaning of this Act.

Houses rebuilt to be on a level determined by commissioners.

What shall be deemed a rebuilding.

\* \* \* \* \*

72. And be it enacted, that in case any sewer, drain, privy, or cesspool, or other work, shall, on inspection, be found not to have been made according to the directions and regulations of the commissioners, or contrary to the provisions of this Act, or in case any person, without the consent of the commissioners, shall construct, rebuild, clear out, unstop, or in anywise alter any sewer, drain, privy, cesspool, or other work which may have been ordered by them not to be made, or to be demolished, stopped up, or amended, every person offending shall forfeit and pay any sum not exceeding the sum of ten pounds; and in case the per-

Penalty on persons making or altering drains, &c., contrary to the order of the commissioners.



## Appendix.

son so making any sewer, drain, privy, cesspool, or other work, contrary to the directions and regulations of the commissioners, or, without such consent as aforesaid, constructing, rebuilding, clearing out, unstopping, or altering, any sewer, drain, privy, cesspool, or other work which may have been ordered to be demolished, stopped up, or amended, shall not, within seven days after notice in writing by the commissioners, cause such sewer, drain, privy, cesspool, or other work to be altered in conformity with the directions of the commissioners, or, as the case may be, to be demolished, stopped up, or amended, then and in every such case the commissioners may cause the same to be done, and the costs and charges thereof shall be paid by the person who shall have so made such sewer, drain, privy, cesspool, or other work contrary to the directions of the commissioners, or shall without such consent have constructed, rebuilt, cleared out, or unstopped, or altered any sewer, drain, privy, cesspool, or other work which they may have ordered to be demolished, stopped up, or amended.

\* \* \* \* \*

Commissioners may require owners of houses to provide privies and ashpits for the same.

99. And be it enacted, that it shall be lawful for the commissioners to require the owner of any house to which no sufficient privy or ashpit is attached to provide such proper privy to the same, in such situation, not disturbing any building already erected, and with such proper door and covering to such privy, and also such fit and sufficient ashpit, and in such situation, not disturbing any building already erected, as the commissioners shall consider requisite for the use of the inmates and occupiers thereof; provided that a privy and ashpit, or two or more privies and ashpits, may, with the approbation of the commissioners, be used in common by the inmates and occupiers of two or more such houses.

No houses to be built without a privy and ashpit being provided,

100. And be it enacted, that no house shall here-after be built without there being constructed, to the satisfaction of the commissioners, either in such house or in a yard attached to such house, a privy, with proper doors and coverings to the same, and also an ashpit, together (if required by the commissioners) with a proper funnel or flue or other means of carrying off upwards any offensive stench from such privy and ashpit.



101. And be it enacted, that it shall be lawful for the commissioners, if they shall think fit so to do, by notice in writing to the owner or occupier of any house or building in which persons of both sexes above twenty in number are employed or intended to be employed at one time in any manufacture, trade, or business, to require such owner or occupier to provide, within a time to be limited in such notice, a sufficient number of water-closets or privies for the separate use of each sex; and if any such owner or occupier shall neglect or refuse to comply with such notice he shall forfeit a sum not exceeding 20*l.*, and a further sum of 40*s.* for every day during which such neglect or refusal shall continue.

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Water-closets to be provided in manufactories.

Penalty for neglect.

102. And be it enacted, that the owner of every house now built or here-after to be built shall keep the privy and ashpit belonging to such house, or used by the inmates or occupiers thereof, in good repair, to the satisfaction of the commissioners; and if the owner of any house shall not provide the same with a privy, with such door and covering to the same, and with such ashpit as aforesaid, or shall not repair the said privy and ashpit, to the satisfaction of the commissioners, within one month next after notice in writing for that purpose from the clerk or surveyor to the commissioners shall have been given to such owner, or left for him at his usual or last known place of abode, or upon or affixed to the premises in respect of which the same shall be given, every owner so making default shall for every such default forfeit any sum not exceeding five pounds, and any further sum not exceeding ten shillings for every week during which such default shall in anywise continue unamended.

Owners of houses to keep privies and ashpits in repair.

\* \* \* \* \*

105. And be it enacted, that it shall be lawful for the commissioners to require the owner of any house in or to which there shall not be or be attached a sufficient cistern for water to provide such fit and capacious cisterns, of such materials and in such situations, and with such proper coverings and cocks and other necessary apparatus, as the commissioners shall consider necessary, for the use of the occupiers thereof, and to require such owner, and also the owner of every house in or to which there shall be or be attached a sufficient cistern, to compound or

Commissioners may require owners of houses to provide cisterns.



**Appendix.** — agree with some water company for a sufficient supply at all times of good and wholesome water, and to keep such cisterns well and sufficiently cleansed, and the same, and everything relating thereto, in good order and repair, so that the occupiers of such house may at all times be enabled conveniently to supply themselves with a sufficient quantity of water; provided that in cases of houses in courts one cistern, if of a sufficient size, may, with the consent of the commissioners, be provided for the inmates or occupiers of two or more such houses.

No house to be built without a cistern being provided for the same.

106. And be it enacted, that no house shall hereafter be built without there being erected, to the satisfaction of the commissioners, either in such house or in a yard attached thereto, a fit and capacious cistern, with a proper covering and cock and other necessary apparatus attached thereto; and it shall be lawful for the commissioners to require the owner of such house to compound with some water company for a due and sufficient supply of wholesome water.

\* \* \* \* \*

Vaults and cellars under streets not to be made without the consent of the commissioners.

125. And be it enacted, that no vault, arch, or cellar shall be made under any street within the city without the consent of the commissioners first obtained; and that all such vaults, arches, and cellars hereafter to be made within the city shall be substantially made, and so as not to interfere or communicate with any drains or sewers under the control of the commissioners, without their consent first obtained; and if any vault, arch, or cellar shall be made contrary to the provisions of this Act it shall be lawful for the commissioners to fill up the same, and the expenses incurred thereby shall be paid by the person making such vault, arch, or cellar.

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Persons liable to pave footways to complete the same with curbstones.

128. And be it enacted, that any person who shall be required by the commissioners, under the provisions of this Act, to pave the footway of any present or future street within the city, shall not be considered to have well and sufficiently paved the same unless he shall have completed the same with curbstones and gutters to the satisfaction of the commissioners.

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## Appendix.

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Power to  
commissioners  
to cause names  
of streets, &c.,  
to be painted,  
&c.

145. And be it enacted, that it shall be lawful for the commissioners from time to time to cause to be painted or affixed on a conspicuous part of some house or building at or near each end, corner, or entrance of every street, the name by which such street is to be known, and from time to time to alter the name of any street, with consent of the major part of the owners of the houses or buildings therein, and to call it by any other name which they the commissioners may see fit, and also to cause every house or building in each of the streets to be marked or numbered, in such manner as they shall judge most proper for distinguishing the same, which mark or number shall alone be allowed to be affixed to such house or building, and if any person shall wilfully or maliciously destroy, pull down, obliterate, or deface any such name or number, or any part thereof, or shall affix or paint or set up any name or number different from the name or number directed by the commissioners, he shall for every such offence forfeit and pay a sum not exceeding forty shillings; and it shall be lawful for the commissioners to obliterate and destroy such name or number so painted or affixed contrary to their order.

146. And be it enacted, that the occupiers of houses or buildings shall be bound to renew the numbers of their houses or buildings as often as they shall be obliterated or defaced.

Numbers of  
houses to be  
renewed by  
occupiers.

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153. And be it enacted, that if any building which shall in any part thereof project beyond the regular line of the street in which the same may be situate, or beyond the front of the building, wall, or railing on either side thereof, shall at any time be taken down to be rebuilt or altered, it shall be lawful for the commissioners to require the same to be set backwards to such a line and in such a manner as the commissioners shall direct for the improvement of such street, the commissioners making full compensation to the owner of such building for any damage which he may sustain thereby.

Houses project-  
ing beyond line  
of street, when  
taken down, to  
be set back.

154. And be it enacted, that if the commissioners shall consider any porch, shed, projecting window, step, cellar door or

Owners, &c., to  
remove future  
projections on



## Appendix.

notice from commissioners.

window, or steps leading into any cellar or otherwise, lamp, lamp post, lamp iron, sign, sign post, sign iron, showboard, window shutter, wall, gate, fence, or opening, or any other projection or obstruction that hereafter may be placed or made against or in front of any house or building, to be an annoyance, in consequence of the same projecting into or being made in or endangering or rendering less commodious the passage along any street, it shall be lawful for them to give notice in writing to the owner or occupier of any such house or building to remove such projection or obstruction, or to alter the same in such manner as the commissioners shall think fit; and such owner or occupier shall within fourteen days after the service of such notice upon him remove such projection or obstruction, or alter the same in such manner as shall have been directed by the commissioners.

Penalty on owners for refusing to remove projections, &c.

155. And be it enacted, that if the owner or occupier of any such house or building shall neglect or refuse, within fourteen days after service of such notice upon him, to remove such projection or obstruction, or to alter the same in such manner as shall have been directed by the commissioners, he shall forfeit and pay any sum not exceeding five pounds for every such offence; and it shall be lawful for the commissioners to cause the same to be removed or altered; and all the charges for such removal or alteration shall be repaid to the commissioners by such owner or occupier, and in default of payment the same may be levied and recovered in the same manner as penalties and forfeitures are by this Act directed to be levied and recovered.

Commissioners may remove the same, and charge the expense to the owners.

Commissioners may remove existing projections, and make compensation for the same.

156. And with regard to all projectious or obstructions of a like kind as those before mentioned, which have been erected, placed, or made against or in front of any house or building in any street before the commencement of this Act, be it enacted, that it shall be lawful for the commissioners, if they shall consider any such projection or obstruction to be an annoyance, in consequence of the same projecting into or being made in or endangering or rendering less commodious the passage along any street, to cause the same to be removed or altered as they shall think fit: Provided always, that the commissioners shall give notice in writing of such intended removal or alteration to the owner or occupier against or in front of whose house or



building such projection or obstruction shall be, seven days before such removal or alteration shall be commenced, and shall make reasonable compensation (to be ascertained, in case of dispute, by any justice, in manner by this Act directed), to every person who shall incur any loss or damage by such removal.

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157. And be it enacted, that if any house, building, or wall, or anything affixed therein or thereto, shall be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passengers, or to the occupiers of any neighbouring house or building, such surveyor shall immediately cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such house, building, or wall, if he be known, and resident within the city, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or other thing, as the case shall require; and if such owner or occupier shall not begin to repair, take down, or secure such house, building, wall, or other thing within the space of three days after any such notice has been given or put up as aforesaid, and complete such repairs, or take down or secure such house, building, wall, or other thing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before two justices; and it shall be lawful for such justices to order the owner, or in his default the occupier (if any), of such house, building, wall, or other thing to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same or such part thereof as shall appear to them to be in a dangerous state, within a time to be fixed by such justices; and in case the same shall not be taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found to serve such order upon, the commissioners shall with all convenient speed cause all or so much of such house, building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up every such fence,

Ruinous or dangerous houses to be taken down, or secured by owners, &c.

If owner, &c., neglect, commissioners may cause the same to be done, charging owner &c., with the expenses.



## Appendix.

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and of taking down, repairing, rebuilding, or securing such house, building, wall, or other thing, shall be paid by the owner thereof.

The expenses to be levied by distress on the owner.

158. And be it enacted, that if such owner can be found within the city, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any justice may issue his warrant accordingly.

If owner cannot be found, commissioners may take the house or ground, making compensation pursuant to 7 & 8 Vict. c. 18.

159. And be it enacted, that if such owner cannot be found within the city, or sufficient distress of his goods and chattels within the city cannot be made, the commissioners, after giving twenty-eight days' notice of their intention to do so by posting a printed or written notice in a conspicuous place on such house or building or wall, or on the land whereon such house, building, or wall stood, may take such house, building, or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such house, building, or land in the manner provided by the Lands Clauses Consolidation Act, 1845, in the case of lands taken otherwise than with the consent of the owners and occupiers thereof; and the commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said house, building, or land for the purposes of this Act.

Commissioners may sell the materials, restoring to the owner the over-plus arising from the sale.

160. And be it enacted, that if any such house, building, or wall, or anything affixed thereon or thereto, as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, it shall be lawful for the commissioners to sell the materials thereof, or so much of the same as shall be pulled down, and to apply the proceeds of such sale in payment of the expenses incurred in respect of such house, building, wall, or other thing: Provided always, that the commissioners shall restore any over-plus arising from such sale to the owner of such house, building, wall, or other thing, on demand; provided further, that the commissioners, although they may sell such materials for the purposes aforesaid, shall have the same remedies for compelling



the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

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161. And be it enacted, that every person who shall build or begin to build, or to take down or begin to take down, any house or wall, or alter or repair, or begin to alter or repair, the outward part of any house or wall, shall cause to be put up a proper and sufficient hoard or fence or scaffold, in all cases in which the footway shall be thereby obstructed or rendered inconvenient with a convenient platform and handrail, if there shall be room enough for the same, to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence or scaffold, in such cases as aforesaid, with such platform and handrail, standing and in good condition, to the satisfaction of the commissioners, during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same shall be necessary, to prevent accidents, cause such hoard or fence to be well lighted during the night; and every such person who shall fail to put up such hoard or fence or scaffold, or such platform, with such handrail as aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted during the night, shall for every such offence forfeit a sum not exceeding five pounds, and a further sum not exceeding forty shillings for every day during the continuance of such default.

Hoards to be erected during repairs.

Penalty on not erecting hoards, &c.

162. And be it enacted, that it shall not be lawful for any person to erect or set up in any street any hoard or fence or scaffold for any purpose whatever, or any posts, bars, rails, boards, or other things by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a licence in writing first had and obtained from the commissioners under the hand of their clerk or surveyor; and every such licence shall state the name of the street in which and the purpose for which such hoard or fence or inclosure is to be made, and the size thereof, and the time for which it is to be permitted to continue.

No hoard to be erected without licence from commissioners.



**Appendix.**

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 Fee on licence.

If hoard be erected or materials be deposited in any manner otherwise than to the satisfaction of the commissioners the same may be removed.

163. And be it enacted, that for every such licence there shall be paid to the commissioners a fee, according to a scale to be prepared by the commissioners, regulated with reference to the space of ground to be enclosed by such hoard or fence or covered by such scaffold, and the length of time for which such hoard or fence or scaffold is to continue: Provided always, that the sum to be paid for such licence shall not in any case exceed the sum of ten pounds.

164. And be it enacted, that if any person shall erect or set up in any street any hoard or fence or scaffolding for any purpose whatever, or any posts, bars, rails, boards, or other things by way of inclosure, for the purpose of making mortar, or of depositing bricks, lime, rubbish, or other materials, without a licence from the commissioners, or shall do any such acts as aforesaid in any other manner than as permitted by such licence, or shall continue the same beyond the time stated in such licence, or shall fail to keep any hoard, fence, platform, or handrail in good repair, he shall for every such offence forfeit a sum not exceeding five pounds, and a further sum not exceeding forty shillings for every day during the continuance of such offence; and it shall be lawful for the commissioners to cause such hoard, fence, or scaffolding, or other inclosure or erection, to be pulled down, and the materials thereof, and also all the bricks, mortar, lime, or other building materials or other matters or things contained within the same or thereto belonging, to be removed to the common pound of the city commonly called the Greenyard, there to be deposited and kept until the owner thereof, or his known servant, shall pay to the person in whose custody the same shall be the charges of pulling down and removing the same; and in case the same shall not be claimed and the said charges paid within the space of eight days next after such seizure thereof, it shall be lawful for the commissioners to order the same to be sold, and by and out of the proceeds of such sale to pay the costs and charges thereby incurred, rendering any surplus to the owner or other person by law entitled thereto; and it shall be lawful for the commissioners to remove to such place as they shall think fit any rubbish or other matters which shall not be of sufficient value to take to the Greenyard; and in case the proceeds of such sale shall be insufficient to cover the costs, charges, and expenses incurred or occasioned by the pulling down of such hoard or fence or scaffolding or other inclosure or erection, and of removing the



## Appendix.

materials thereof, and of other materials, matters, and things, and of selling and disposing of such materials, matters, and things, and of removing and carting away such rubbish and things as shall not be of sufficient value to take to the greenyard, the deficiency shall be repaid by the owner of such materials, matters, and things, to the commissioners, on demand, and in default of payment the same may be levied or recovered in the same manner as penalties and forfeitures are, by this Act directed to be levied and recovered.

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256. And be it enacted, that if any person shall at any time obstruct, hinder, or molest any commissioner, or any surveyor, inspector, collector, or other officer, workman, or person whomsoever, who shall be employed by virtue of this Act, in the performance or execution of his duty, every such person so offending shall for the first offence forfeit and pay the sum of five shillings, for the second offence the sum of twenty shillings, and for the third and every other offence the sum of five pounds.

\* \* \* \* \*

262. And be it enacted, that in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Penalty on interrupting workmen, &c., in execution of duties.

Interpretation of Act :

The word "city" shall mean the city of London and the liberties thereof, and shall include such parts of Holborn, the Minories, and Aldersgate Street as are or have been usually treated as being within the liberties of the city, and the courts and alleys leading into the same or communicating therewith, and also the north side of Eldon Street, formerly called Broker Row, Moorfields, and the courts and alleys leading into the same or communicating therewith, and all precincts and places within the city of London or the Liberties thereof:

The word "land" shall extend to and comprise messuages, lands, tenements, or hereditaments of any tenure, and shall include houses and buildings:

The word "house" shall mean a dwelling-house: "House :"

The word "building" shall extend to and comprise houses, warehouses, manufactories, and all buildings of what nature or kind soever, and every part thereof: "Building:"

The word "street" shall include any square, street, court, alley, footpath, footway, highway, lane, road, thoroughfare, or public passage or place. "Street :"



**Appendix.**

- “ Court : ” The word “ court ” shall mean any present or future court, or passage leading into a court, or any present or future alley, or other way or place, having a house or houses or the principal entrance into a house therein, but not having a road or carriageway :
- “ Passage : ” The word “ passage ” shall mean any present or future passage, alley, or other way or place not having a house or houses or the principal entrance into a house therein, but merely leading into any street or court, or to any house in such street or court, and not being a road or carriageway :
- “ Public place : ” The word “ public place ” shall mean any place to which the public have power of access, either by day or by night :
- “ Pavement : ” The word “ pavement ” shall include stone of all kinds, bricks, tiles, wood, asphalt, or any other preparation, or any materials used in lieu of paving stones, by or with the approbation of the commissioners :
- “ Carriage : ” The word “ carriage ” shall include any coach, omnibus, chariot, car, fly, cabriolet, gig, sociable, waggon, cart, caravan, timber carriage, dray, sledge, truck, handcart, wheelbarrow, or handbarrow :
- “ Cart : ” The word “ cart ” shall include any waggon, caravan, timber carriage, dray, or such like vehicle :
- “ Cattle : ” The word “ cattle ” shall include any horse, mare, gelding, foal or filly, bull, cow, heifer, ox, calf, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine :
- “ Offensive matter : ” The words “ any offensive matter or thing ” shall include any nightsoil, offal, putrid meat or fish, entrails of fish, carrion, dead animals, blood, dung, manure, fish, shells, bones, broken glass, china, or earthenware, dust, ashes, refuse of vegetables or fruit, orange peel, soaples, soapsuds, or gas tar :
- “ Owner : ” The word “ owner ” shall mean any person in the possession or receipt of rent or profit arising from any house, building, or land: And whenever any forfeiture, penalty, or damage is payable to a party aggrieved, it shall be payable to a body corporate in like manner as to an individual; and where the doing of any act or thing is made punishable by this Act, or by any of the rules or regulations to be made by the commissioners in pursuance thereof, with any penalty, fine, or forfeiture, the causing, procuring, permitting, or suffering such act or thing to be done shall be punishable in like manner.



## THE CITY OF LONDON SEWERS ACT, 1851.

## Appendix.

## 14 &amp; 15 VICT. CAP. XCI.

*An Act to continue "The City of London Sewers Act, 1848,"  
and to alter and amend the Provisions of the said Act.*

[24th July, 1851.]

\* \* \* \* \*

11. That it shall not be lawful to let for occupation, or suffer to be occupied separately as a dwelling, any vault or cellar under any house or building in any court. Cellars in courts not to be occupied as dwellings.

12. That it shall not be lawful to let or continue to let for occupation, or suffer to be occupied separately as a dwelling, any vault or cellar under any house or building in any street, unless such vault or cellar be in every part thereof at least eight feet in height, measured from the floor to the ceiling thereof, nor unless the same be at least three feet of its height above the surface of the street adjoining the same, nor unless there be outside of and adjoining the same vault or cellar, and extending along the entire frontage thereof and upwards, from six inches below the level of the floor thereof up to the surface of the said street, an open area of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain the uppermost part of which shall be one foot at least below the level of the floor of such vault or cellar, nor unless its floor be so constructed as to render it, in the judgment of the commissioners, fit and proper for habitation, nor unless there be attached to such vault or cellar the use of a watercloset or privy, and a dustbin, furnished with proper doors and coverings, kept and provided according to the provisions of the said recited Act or this Act, nor unless the same vault or cellar have a fireplace with a proper chimney or flue, nor unless the same have an external window of not less than three feet square, or otherwise of an area of not less than nine feet clear of the sash frame, and



## Appendix.

made to open in such manner as shall be approved by the commissioners, except in the case of an inner or back vault, cellar, or room let or occupied along with a front vault, cellar, or room as part of the same letting or occupation, in which last mentioned case the external window may be of any dimensions not less than two feet square, or otherwise of an area not less than four feet clear of the sash frame.

Penalty on letting underground rooms for dwellings.

13. That every person who shall let, or knowingly suffer to be occupied for hire or rent as a dwelling, any vault, cellar, or underground room, contrary to the provisions of this Act, shall for every such offence forfeit any sum not exceeding 2*l.*, and also any sum not exceeding 10*s.* for every day during which such vault, cellar, or underground room shall be so occupied.

As to placing steps to cellars.

14. That in any area adjoining a vault, cellar, or underground room used or intended to be used as a dwelling there may be placed steps necessary for access to such vault, cellar, or room, if such steps be so placed as not to be over, across, or opposite to the external window of such vault, cellar, or room, and so as to allow between every part of such steps and the external wall of such vault, cellar, or room, a clear space of six inches at the least, and that over or across any such area there may be placed steps necessary for access to any building above the vault, cellar, or room to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window.

When a cellar is to be deemed a dwelling place.

15. That every vault, cellar, or underground room in which any person shall pass the night shall be deemed to have been occupied as a dwelling within the meaning of this Act.

\* \* \* \* \*

Ashpit to include dustbin.

28. That throughout the said recited Act, wherever the word "ashpit" shall be used, it shall be deemed and taken to include "dustbin."

\* \* \* \* \*

Upon a continuous supply of water being provided, the necessity to provide cisterns shall cease.

31. That if any time hereafter, owing to a continuous supply of water having been provided for the use of the inhabitants of the city, it shall, in the opinion of the commissioners, cease to be necessary that every house should be provided with a cistern,



then and in such case the provisions contained in the said recited Act requiring that every house then existing, as well as those that should thereafter be built, should be provided with a cistern, with a proper covering and cock, to the satisfaction of the commissioners, shall be no longer binding or obligatory.

## Appendix.

\* \* \* \* \*

39. That no urine or filthy or offensive liquid of any kind shall be permitted to flow from any house or building, private court or passage, upon the footway of any street, or upon the pavement of any court or passage, or into the surface drain or channel of any street, but all such houses, buildings, private courts or passages, shall be drained into the public sewers by close drains or pipes or tunnels placed below the surface of the pavement of the streets; and if any person shall wilfully permit or suffer any urine or offensive fluid of any kind to flow from any house or building, or private court or passage, upon the footway of any street, or upon the pavement or any court or passage, or into the surface drain or channel of any street, such person shall be liable to a penalty not exceeding 5*l.* for every such offence: Provided always, that in the case of any tempest, flood, or other unavoidable necessity in which it may be requisite that water should be pumped up or discharged from any house, building, or place, such water may be conveyed over or under the footway, or over or under the pavement of any court or passage, by spouts or troughs, into the surface drain or channel of the street.

Offensive liquids to be conveyed into the sewers without flowing over the pavement.

Penalty.

\* \* \* \* \*

41. That the provisions contained in the one hundred and fifty-seventh section of the said recited Act, with reference to the taking down, securing, or repairing any house, building, wall, or other thing which shall be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passers or to the occupiers of any neighbouring house or building, shall extend and be applied to any house or building which in the opinion of the medical officer of health is permanently unwholesome and unfit for human habitation.

Provisions in sect. 157 of recited Act, with reference to taking down, &c., houses, to extend to houses unfit for human habitation.

\* \* \* \* \*



**Appendix.**

After 1st Jan.,  
1852, furnaces to  
consume their  
own smoke.

48. That from and after the first day of January one thousand eight hundred and fifty-two every furnace employed or to be employed in the working of engines by steam, and every furnace employed or to be employed in any mill, factory, printing house, dyehouse, iron foundry, glasshouse, distillery, brewhouse, bakehouse, gasworks, waterworks, or other buildings used for the purpose of trade or manufacture within the city (although a steam engine be not used or employed therein), shall in all cases be constructed or altered so as to consume the smoke arising from such furnace; and if any person shall, after the first day of January one thousand eight hundred and fifty-two, use any such furnace which shall not be constructed so as to consume or burn its own smoke, or shall so negligently use any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, or shall carry on any trade or business which shall occasion any noxious or offensive effluvia, or otherwise annoy the neighbourhood or inhabitants, without using, to the satisfaction of the commissioners, the best practicable means for preventing or counteracting such annoyance, every person so offending shall forfeit and pay a sum of not more than 5*l.* nor less than 40*s.*, for and in respect of every day during which or any part of which such furnace or annoyance shall be so used or continued.

Penalty on  
neglect.



## APPENDIX (C).

## Appendix.

## METROPOLITAN BOARD OF WORKS.

## METROPOLIS LOCAL MANAGEMENT ACT.

*Bye-law as to the formation of new streets in the Metropolis.*

Made by the metropolitan board of works at a meeting of the said board, held at Guildhall, in the City of London, on the 17th day of March, in the year of our Lord 1857, in and for the limits of the metropolis as defined by an Act passed in the nineteenth year of the reign of Her present Majesty, "For the better Local Management of the Metropolis;" and submitted to and confirmed at a subsequent meeting of the said board, held at Guildhall aforesaid, in and for the limits aforesaid, on the 3rd day of April, in the year of our Lord 1857; and approved by the Right Honourable Sir George Grey, Baronet, one of Her Majesty's principal Secretaries of State, pursuant to the said Act; and published this 1st day of May, A.D. 1857.

In pursuance of the powers vested in the metropolitan board of works, by the Act of Parliament passed in the nineteenth year of the reign of Her present Majesty, intituled, "An Act for the better Local Management of the Metropolis;" It is hereby ordered by the said board as follows, that is to say:—

1. Four weeks, at the least, before any new street shall be laid out, written notice shall be given to the metropolitan board of works, at their office Spring Gardens, in the County of Middlesex, by the person or persons intending to lay out such new street, stating the proposed level and width thereof, and accompanied by a plan of the ground, showing the local situation of the same.



**Appendix.**  
—

2. Forty feet, at the least, shall be the width of every new street intended for carriage traffic; twenty feet at the least, shall be the width of every new street intended only for foot traffic; Provided that the said width, respectively, shall be construed to mean the width of the carriage and footway only, exclusive of any gardens, forecourts, open areas, or other spaces in front of the houses or buildings erected or intended to be erected in any street.

3. Every new street shall, unless the metropolitan board of works otherwise consent in writing, have at the least two entrances of the full width of such street; and shall be open from the ground upward.

4. The measurement of the width of every new street shall be taken at a right angle to the course thereof, half on either side from the centre or crown of the roadway to the external wall or front of the intended houses or buildings on each side thereof; but where forecourts or other spaces are intended to be left in front of the houses or buildings, then the width of the street, as already defined, shall be measured from the centre line up to the fence, railing, or boundary dividing or intended to divide such forecourts, gardens, or spaces from the public way.

5. The carriage-way of every new street must curve or fall from the centre or crown thereof at the rate of three-eighths of an inch, at the least, for every foot of breadth.

6. In every new street the curb to each footpath must not be less than four nor more than eight inches, above the channel of the roadway, except in the case of crossings, paved or formed for the use of foot-passengers; and the slope of every footpath towards the curb must be half an inch to every foot of width, if the footpath be unpaved, or not less than a quarter of an inch to every foot of width, if the footpath be paved.

7. In this bye-law the word "street" shall be interpreted to apply to and include any highway (except the carriage-way of any turnpike road), and any road, public bridge (not being a county bridge), lane, footway, square, court, alley, or passage, whether a thoroughfare or not; and a part of any such highway, road, bridge, lane, footway, square, court, alley, or passage.



8. In case of any breach of the regulations contained in this bye-law, the offender shall be liable for each offence to a penalty of forty shillings; and in case of a continuing offence to a further penalty of twenty shillings for each day after notice thereof from the metropolitan board of works.

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THE METROPOLIS MANAGEMENT AND BUILDING ACTS  
AMENDMENT ACT, 1878.

*Regulations made by the metropolitan board of works at a meeting held at the offices of the board, Spring Gardens, on Friday, the 2nd day of May, 1879, under the provisions of the above-mentioned Act.*

I.

These regulations shall apply to all theatres, houses, or places of public resort within the metropolis, to be kept open for the public performance of stage plays, and to all houses, rooms, or other places of public resort within the metropolis, containing a superficial area for the accommodation of the public, of not less than 500 square feet, to be opened or kept open for public dancing, music, or other public entertainment of the like kind under the authority of letters patent from Her Majesty the Queen, her heirs or successors, or of licenses by the Lord Chamberlain of Her Majesty's household, or by any justices of the peace, or by any court of quarter sessions which may be granted for the first time after the 22nd day of July, 1878.

II.

Every person who, for the first time after the making of these regulations, may be either desirous of obtaining authority to open any house, or other place of public resort, within the metropolis for the public performance of stage plays, or to open any house, room, or other place of public resort within the

Drawings of  
theatres, music  
halls, &c., to be  
submitted to  
metropolitan  
board of works.



**Appendix.** — metropolis containing a superficial area for the accommodation of the public of not less than 500 square feet for public dancing, music, or other public entertainment of the like kind, shall give notice of such desire to the metropolitan board of works. The notice must contain a statement as to the nature of the interest of such person in the premises so proposed to be opened, and be accompanied by plans, elevations, and sections of such house, room, or place of public resort, or of the premises of which such house, room, or place of public resort may form part, drawn to a scale of not less than one-eighth of an inch to a foot, and by a block plan showing its position in relation to the premises adjacent, drawn to a scale of not less than one inch to 20 feet, and in the case of new buildings, or of buildings to be adapted as a place of public resort, must be also accompanied by a specification of the works to be executed, describing the materials to be employed and the mode of construction to be adopted, together with such other particulars as may be necessary to enable the board and its officers to judge whether the requirements of these regulations will, when the building has been completed, have been complied with.

The notice must be also accompanied by a detailed statement of the respective numbers of persons proposed to be accommodated in the various portions of such house, room, or place of public resort, and of the area to be assigned to each person, which shall not be less than one foot eight inches by one foot six inches in the gallery, nor less than two feet four inches by one foot eight inches in the other parts of the house, room, or other place of public resort.

### III.

**Walls.**

Every such house, room, or place of public resort shall be enclosed with external walls of brick or stone, or partly of brick and partly of stone. The thickness of such walls shall not be less than the thickness prescribed by the Metropolitan Building Act, 1855, for walls of similar height and length in buildings of the warehouse class.

### IV.

**Proscenium wall:**

In any house or other place of public resort, for the public performance of stage plays, or where a proscenium shall be erected,



**Appendix.**

the proscenium wall shall be of brick, not less than thirteen inches in thickness, and shall be carried up to a height of three feet above the roof, and be carried down below the stage, to the level of the foundation of the external walls.

No openings shall be formed in the proscenium wall, with the exception of a doorway into the orchestra, and one doorway on each side of the stage for communication with the auditorium. These doorways shall not be more than three feet six inches wide, and shall be closed with iron doors, fixed without wood-work.

The decorations round the proscenium shall be constructed of fire-resisting materials.

V.

The staircases and the floors of the passage, lobbies, corridors, and landings, shall be of fire-resisting materials. Every staircase for the use of the audience shall be supported and enclosed by brick walls. The treads of each flight of stairs shall be of uniform width. Public staircases, corridors, &c.

No staircase, internal corridor, or passage-way, for the use of the audience, shall be less than four feet six inches wide. Every staircase, corridor, or passage-way for the use of the audience, and which communicates with any portion of the house, intended for the accommodation of a larger number of the audience than four hundred, shall be increased in width by six inches for every additional hundred persons, until a maximum width of nine feet be obtained. Provided always that in every case where the staircases are six feet wide and upwards a dividing hand-rail shall be provided.

A clear passage or gangway, of not less than three feet wide, shall be reserved round every part appropriated to the audience, except that next the proscenium or place of performance.

VI.

All ironwork used in construction shall be protected against the action of fire in such manner as may be required by the board.



## Appendix.

Means of exit.

VII. In all cases where a portion of the audience is to be accommodated over or at a higher level than others of the audience, a separate means of exit, of the width above prescribed for staircases, internal corridors, or passage-ways, and communicating directly with the street, shall be provided from each floor or level. Separate tiers of boxes shall for this purpose be reckoned together as forming one floor or level. One additional exit, at the least, communicating with the different levels, and opening directly into the street, must also be provided.

## VIII.

## Doors.

All doors and barriers shall be made to open outwards.

## IX.

## Warming.

In theatres and places where the auditorium and stage shall be warmed artificially, hot water only, and that at low pressure, shall be used, and the warming apparatus shall be placed in a position to be approved by the board.

## X.

## Ventilation.

All openings for ventilation shall be shown on the plans, and properly described in the specifications. The openings shall be made in such places and in such manner as may be approved by the board.

## XI.

## Workshops.

No workshop, painting room, or dressing room shall be formed or constructed over the auditorium, or in the space under the same.

## XII.

Scene-docks,  
&c.

No scene-dock, property-room, or store-room shall be permitted within any house, room, or other place of public resort, unless such scene-dock, property-room, or store-room be separated from the house, room, or other place of public resort, by brick and fire-proof construction.

## XIII.

## Water supply.

In any case where there are not fire mains on constant supply there shall be provided on the top of the proscenium wall or



**Appendix.**

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at some other place to be approved by the board, two cisterns, each capable of containing at least two hundred and fifty gallons of water for every hundred persons of the audience to be accommodated in the building. Fire mains shall be connected with these cisterns and extend round the whole circuit of the building, and be fitted with hydrants in such places and manner as may be approved by the board.

XIV.

All gaspipes shall be made of iron or brass. No white metal Gas-pipes shall be used in any part of the building.

XV.

In cases in which a house, room, or other place of public resort, forms a part only of a building, such house, room, or other place of public resort, shall be separated from the other parts of the building by proper party walls or party structures.

Separation of buildings.

XVI.

Notice shall be given to the board of any intended addition to or structural alteration of any house, room, or other place of public resort, in respect of which the board may have granted a certificate to the effect that such house, room, or other place of public resort, was on its original completion in accordance with the foregoing regulations, or otherwise in compliance with the said Act, and the conditions required by the board applicable thereto. Such notice shall be accompanied by plans, elevations and sections, showing such additions and alterations, and also by a specification of the works to be executed in the same manner as in the case of a new building to be certified for the first time by the board; and the board will if necessary cause a fresh survey of the building to be made.

Alterations and additions.

XVII.

Inasmuch as by section 12 of the said Act, the board may from time to time, in any special case dispense with or modify its regulations, all applications for dispensation or modification must be in writing, addressed to the board, and contain a statement of the facts of the particular case, and the reasons why it is desired to modify or dispense with these regulations as applicable thereto.



**Appendix.** *Bye-laws made by the board under the provisions of the Metropolis Management and Building Acts Amendment Act, 1878, sect. 16.*

**1.—FOUNDATIONS AND SITES OF BUILDINGS.**

No house, building, or other erection, shall be erected upon any site or portion of any site which shall have been filled up or covered with any material impregnated or mixed with any faecal, animal, or vegetable matter, or which shall have been filled up or covered with dust, or slop, or other refuse, or in or upon which any such matter or refuse shall have been deposited, unless and until such matter or refuse shall have been properly removed, by excavation or otherwise, from such site. Any holes caused by such excavation must, if not used for a basement or cellar, be filled in with hard brick or dry rubbish.

The site of every house or building shall be covered with a layer of good concrete, at least six inches thick, and smoothed on the upper surface, unless the site thereof be gravel, sand, or natural virgin soil.

The foundations of the walls of every house or building, shall be formed of a bed of good concrete, not less than nine inches thick, and projecting at least four inches on each side of the lowest course of footings of such walls. If the site be upon a natural bed of gravel, concrete will not be required.

The concrete must be composed of clean gravel, broken hard brick, properly burnt ballast, or other hard material to be approved by the district surveyor, well mixed with fresh burnt lime or cement in the proportions of one of lime to six, and one of cement to eight of the other material.

The foregoing bye-law shall not apply to any building or other erection to be used as a stable or shed, provided that such erection shall not be used for any public entertainment or assembly of persons, or as a dwelling or sleeping place.



2.—DESCRIPTION AND QUALITY OF THE SUBSTANCES OF  
WALLS.

Appendix.

The external walls of every house, building, or other erection, shall, except in the case of concrete buildings, be constructed of good, hard, sound, well-burnt bricks, or of stone, and shall be put together with good mortar or good cement.

Similar bricks shall be used in the portions of party and cross walls below the surface or level of the ground, and above the roof, including the chimney stacks. Cutters or malms may be used in arches over recesses and openings in, or facings of, external walls.

Stone used for the construction of walls must be free from vents, cracks, and sand holes, and be laid on its natural bed.

The mortar to be used must be composed of fresh burnt lime and clean sharp sand or grit, without earthy matter, in the proportions of one of lime to three of sand or grit.

The cement to be used must be Portland cement, or other cement of equal quality, mixed with clean sharp sand or grit, in the proportions of one of cement to four of sand or grit.

Burnt ballast or broken brick may be substituted for sand or grit, provided such material be properly mixed with lime in a mortar mill.

Every wall of a house or building shall have a damp course throughout its whole thickness, of asphalt, or other material impervious to moisture. The damp course in external walls shall be at a height of one foot above the level of the ground directly abutting upon the external wall, and in the party or internal walls at a level of not less than six inches below that of the lowest floor.

The top of every party wall and parapet wall shall be finished with one course of hard, well-burnt bricks set on edge, in cement, or by a coping of any other waterproof and fire-resisting material, properly secured.



**Appendix.****3.—DUTIES OF DISTRICT SURVEYORS.**

It shall be the duty of each district surveyor, on receiving notice of the commencement of any house, building, or other erection, or of any alteration or addition, or on his becoming aware that any house, building, or other erection, or any alteration or addition, is being proceeded with, to see that the provisions of the foregoing bye-laws are duly observed (except in cases where the board may have dispensed with the observance thereof), and to see that the terms and conditions upon which any dispensation may have been granted are complied with.

**4.—FEES TO BE PAID TO DISTRICT SURVEYORS.**

The district surveyor shall in respect of the erection of any house or other building, be entitled to receive the sum of five shillings, the same to be taken and deemed to be a fee due to such district surveyor in respect of the duties imposed upon him by the Metropolis Management and Building Acts Amendment Act, 1878, and these bye-laws; such fee to be payable in the manner and at the time prescribed by sect. 51 of the Metropolitan Building Act, 1855. The district surveyor shall also, in every case where, in respect of any breach of these bye-laws or of the above Act of Parliament, an application shall be made by him to a justice, and an order made thereon, be in like manner entitled to receive the sum of ten shillings, in addition to the before-mentioned fee of five shillings.

**5.—DEPOSIT OF PLANS AND SECTIONS.**

On notice being given to a district surveyor of the intended erection, re-erection, alteration of, or addition to a public building, or a building to which sect. 56 of the Metropolitan Building Act, 1855, applies, it shall be the duty of the person giving such notice to deposit plans and sections of such erection, re-erection, alteration, or addition, with the district surveyor. Such plans and sections shall be of sufficient detail to show the construction.

On notice being given to the district surveyor of the intended erection or alteration of or addition to the house, building, or



other erection, other than a public building, the district surveyor may, if he think fit so to do, by notice in writing, require the person giving such notice to produce a plan or plans and sections of any such house, building, or other erection or of the intended alterations or additions thereto, for his inspection.

6.—PENALTIES.

In case of any breach of any of the provisions contained in these bye-laws, the offender shall be liable for each offence to a penalty not exceeding three pounds, and, in each case of a continuing offence, to a further penalty not exceeding thirty shillings for each day after notice thereof from the board or the district surveyor.

In any case, if the board think it expedient, they may dispense with the observance of any of the foregoing bye-laws, or any part thereof, upon such terms and conditions as they may think proper, and in case of the non-observance of any terms and conditions upon which the board may have dispensed with the observance of any of the foregoing bye-laws, then such proceedings may be taken, and such liabilities shall be incurred, as if no such dispensation had been granted.

*Sealed by order,*

J. E. WAKEFIELD,

SPRING GARDENS,

*Clerk of the Board.*

3rd October, 1879.



I confirm the foregoing bye-laws,

RD. ASSHETON CROSS,

*One of Her Majesty's Principal Secretaries of State.*

WHITEHALL,

6th October, 1879.



## Appendix.

## APPENDIX (D).

## REGULATIONS FOR HOARDS AND SCAFFOLDS.

AGREED TO BY THE COMMISSIONERS OF SEWERS OF THE CITY  
OF LONDON, TUESDAY, 19TH JULY, 1870.

## IT WAS ORDERED—

That each application for a hoard or scaffold be entered in a book, with headings, for the following information :—

1. Name of street or place, and No. of house.
2. Nature of work to be executed.
3. Superficial area at ground level, if new premises are to be built or old premises largely altered.
4. Number of storeys above ground level, if new premises are to be built or old premises largely altered.
5. Length of hoarding or scaffolding needed.
6. Time for which licence is requested.
7. Name and address of owner.
8.     "             "             architect.
9.     "             "             builder.
10.   "            "            applicant.
11. Date of application.
12. Signature of applicant.

## ORDERED ALSO—

That the district inspector in another column do report the time in his opinion needful, and the licence be then made out, and the conditions entered in the same book.

## ORDERED ALSO—

That the following sums be charged on each licence :—



**Appendix.**

**FOR HOARDS.**

If to remain not more than two weeks, per foot lineal of frontage ... ..	6d.
If over two weeks, and not more than four weeks, per foot lineal ... ..	1s.
For every month or part of a month beyond the four weeks, per foot lineal ... ..	1s.

**FOR SCAFFOLDS.**

If to remain not more than two weeks, per foot lineal ... ..	4d.
If more than two weeks and not more than four weeks, per foot lineal ... ..	8d.
For every month or part of a month beyond the four weeks, per foot lineal ... ..	8d.
Raking shores to come under the charges for scaffolds at the following rates:—	
If to remain not more than two weeks ...	5s.
If more than two weeks and not more than four weeks ... ..	10s.
For every month or part of a month beyond four weeks ... ..	10s.
No fee either for hoard or scaffold to be more than £10.	

**ORDERED ALSO—**

That no board or scaffold do project on to the carriage-way without a special reason to be stated on the licence.

That no scaffold be enclosed so as to prevent passengers passing under it.

That the lower stage of scaffolds be close or doubly planked, to have fan and edge boards and such other additional precautions as the district inspector of pavements thinks requisite to prevent dirt or wet falling upon the public, or to be requisite for safety.

That no materials be deposited below any scaffold. If in the opinion of the district inspector, it is necessary for the public safety, a hoard licence only to be granted instead of a scaffold licence.



Appendix.

That no hoard or scaffold do project beyond the footway pavement where it is narrow, nor more than six feet where the footway is wide enough to admit of such projection; any deviation on account of special emergency to be stated upon the licence.

That no hoard be allowed to have a door opening outwards.

## ORDERED—

That in all cases, where practicable or needed, a boarded platform, four feet in width and as much wider as may be necessary for the traffic, with a stout post and rail and wheel kerb, to be constructed on the outside of it, as the district inspector may require.

And that all hoards and scaffolds be watched and lighted at night.

## RESOLVED—

That in the event of any disagreement between the applicant for a licence and the inspector of the district, as to the length of time during which any hoard or scaffold should remain, &c., the case be referred to the court or streets committee, whichever may first meet, to determine the point in difference.

## RESOLVED AND ORDERED—

16th December, 1879.

That it be an additional regulation in licensing hoards and scaffolds, that they be so arranged as not to enclose fire hydrants, which must be left uncovered in recesses of such size and in such manner as may enable them to be readily got at and used; and as the inspector of the district may direct.

HENRY BLAKE, *Principal Clerk,*  
Sewers Office, Guildhall.



## APPENDIX (E).

## Appendix.

*Registered No.*

Metropolitan Building Acts, 1855 and 1869.

*Notice of a Dangerous Structure.*

day of 18

TO THE METROPOLITAN BOARD OF WORKS.

I HEREBY give you information that a certain structure, known as and being No. in the parish of in the county of is in my opinion in a dangerous state, and request that the same may be dealt with by you according to the statute.

Name

Address

Certificate of Survey of Works.

*Registered No.*

day of 18

METROPOLITAN BUILDING ACT, 1869.

*Dangerous Structures.*

I certify that I have made a survey of the structure as required by the Metropolitan Board of Works, and that in my opinion the said structure is in "a dangerous state:" Further, that it is necessary for the protection of passengers that the said structure be shored up and hoarded or fenced; Further that the owner or occupier should be required to take down

Owner's Name and Address

Area of Building

Number of Storeys

Length of time which may be reasonably }  
allowed for execution of Works. }

Do. Hoarding and Shoring (if necessary)

*The Superintending Architect**of Metropolitan Buildings,**Spring Gardens, S.W.**District Surveyor.*



## Appendix.



Form "A."

[N.B.—This Form is sanctioned by the Metropolitan Board of Works, and sealed as required by the Statutes in that behalf provided.]

THE METROPOLITAN BUILDING ACT, 1855, 18 & 19  
VICT. CAP. 122, AND THE METROPOLIS MANAGE-  
MENT AND BUILDING ACTS AMENDMENT ACT,  
1878, 41 & 42 VICT. CAP. 32, PART II.

DISTRICT SURVEYOR'S OFFICE FOR THE DISTRICT.

To Mr. (b) of the occupier (a) the  
builder, or the owner] engaged in constructing the house,  
building, or erection hereinafter described.

TAKE NOTICE that the house, building, or other erection  
situate and being as follows :

Nature of building

Parish

Street or Place

Number in Street (if any)

Description of Locality or Site

has been begun to be and is constructed contrary to the provi-  
sions of the bye-laws made under the authority of the said Act  
of 1878, in the following respects (c) :

And I hereby require you forthwith to conform to the provi-  
sions of the said Acts and bye-laws by (d) altering the whole [or  
the part] of the aforesaid house, building, or other erection  
as follows (e) :

[or] (f) pulling down and removing the whole [or the  
part] of the aforesaid house, building, or other erection.

Dated this day of 188 .

*District Surveyor for the District of*

N.B.—By section 17 of the Act 41 & 42 Viet. c. 32 (1878), it  
is enacted that in case any occupier, builder, owner, or other  
person, during 28 days after the service of this notice, fails to  
comply with the requirements of such notice, he shall be liable  
to a penalty of not less than ten shillings, and not more than  
forty shillings, for every day from the time of the service of such



## Appendix.

notice, as aforesaid, until the house, building, or other erection, or any part thereof, comprised in such notice is altered, pulled down, or removed, in accordance with the terms of such notice, and every such penalty shall be in addition to any other penalty for breach of any bye-law.

(a) Insert address.

(b) Insert name of owner, occupier, or builder, as the case may be. It will be preferable to insert that of the builder in cases where the work is actually going on. Strike out the part not adapted to the case.

(c) Here shortly state what is objected to, as: "The foundation or site has not been properly prepared by excavating and removing the refuse or dust therefrom."

"The site has not been covered with a layer of concrete."

"The concrete used is not properly composed, or the materials, namely, the lime is not of proper quality," &c., &c.

"The external walls are not constructed of proper bricks or stone, or are improperly put together, or bad mortar or cement is used."

(d) In cases where alteration or addition and no pulling down is required, adopt this part of the form. Strike out the part not adapted to the case.

(e) Here state what alteration is required.

(f) In cases where pulling down and removal are required, adopt this part. Strike out the part not adapted to the case.

## Form "B."



Seal of the  
Board.

[*This Form is sanctioned by the Metropolitan Board of Works, and sealed as required by the Statutes in that behalf provided.*]

THE METROPOLITAN BUILDING ACT, 1855, 18 & 19  
VICT. CAP. 122, AND THE METROPOLIS MANAGE-  
MENT AND BUILDING ACTS AMENDMENT ACT,  
1878, 41 & 42 VICT. CAP. 32, PART II.

DISTRICT SURVEYOR'S OFFICE FOR THE DISTRICT.

(a) .

I, the undersigned, being the district surveyor in and for the said district, having received from you notice of the intended erection of [*or (b) re-erection of or alteration of or addition to*]



Appendix. — the building [(c) *intended to be*] erected on the site described in your said notice as being in                      street or place                      in the parish of                      in the county of                      and known as (d) and situate within my aforesaid district, do hereby require you forthwith to deposit with me at my office aforesaid, plans and sections of the proposed new building [*or (e) alterations and additions to the said building*] such plans and sections to be of sufficient detail to show the construction.

Dated this                      day of                      188                      .

*District Surveyor for the District of*

(f) To Mr.

N.B. By the bye-laws made under the authority of the above-mentioned statutes, and confirmed by the Secretary of State, it is provided that on notice being given to a district surveyor of the intended erection, re-erection, alteration of, or addition to, a public building, or a building to which section 56 of the Metropolitan Building Act, 1855, applies, it shall be the duty of the person giving such notice to deposit plans and sections of such erection, re-erection, alteration, or addition, with the district surveyor. Such plans and sections shall be of sufficient detail to show the construction.

In case of any breach of any of the provisions contained in the bye-laws, the offender shall be liable for each offence to a penalty not exceeding three pounds, and, in each case of a continuing offence, to a further penalty not exceeding thirty shillings for each day after notice thereof from the board or the district surveyor.

- (a) Insert address.
  - (b) As the case may be.
  - (c) Omit if building is one already built.
  - (d) Insert name, if any, by which building is known.
  - (e) As the case may be.
  - (f) The person giving the notice of works.
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## Form "C."

## Appendix.



[*This Form is sanctioned by the Metropolitan Board of Works, and is sealed as required by the Statutes in that behalf provided.*]

THE METROPOLITAN BUILDING ACT, 1855, 18 & 19  
VICT. CAP. 122, AND THE METROPOLIS MANAGE-  
MENT AND BUILDING ACTS AMENDMENT ACT,  
1878, 41 & 42 VICT. CAP. 32, PART II.

DISTRICT SURVEYOR'S OFFICE FOR THE DISTRICT.

(a).

I, the undersigned, being the district surveyor in and for the said district, do hereby require you forthwith to produce and show to me for my inspection at my office aforesaid, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, a plan or plans and sections of and relating to the intended house, building, or other erection [*or (b) of and relating to the intended alterations and additions to the house, building, or other erection*], situate and being No. Street [*or (c) to be erected on the plot of land situate in*] in the parish of , in the county of , and within my aforesaid district, and in respect of which erection, alterations, or additions you have caused notice to be given to me as such district surveyor.

Dated this day of 188 .

*District Surveyor for the District of*

(d) *To Mr.*

N. B.—By the bye-laws made under the authority of the above-mentioned statutes, and confirmed by the Secretary of State, it is provided that on notice being given to the district surveyor of the intended erection, or alteration of, or addition to, any house, building, or other erection other than a public building, the district surveyor may, if he think fit so to do, by notice in writing, require the person giving such notice to produce a plan, or plans, and sections of any such house, building, or other erection, or of the intended alterations or additions thereto, for his inspection.



## Appendix.

In case of any breach of any of the provisions contained in the bye-laws, the offender shall be liable for each offence to a penalty not exceeding three pounds, and, in each case of a continuing offence, to a further penalty not exceeding thirty shillings for each day after notice thereof from the board or the district surveyor.

- (a) Insert address.
- (b) As the case may be.
- (c) Strike out the words not adapted to the case.
- (d) The person giving the notice of works.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
1, Greek Street, Soho, W.,

21st November, 1859.

DEAR SIR,

This board having duly considered the report of the Building Act Committee on the returns relative to underground rooms and cellars let or occupied contrary to the 103rd section of the Metropolis Local Management Act, made by the several district surveyors in July last, it was resolved —

“That copies of the returns by district surveyors, relative to underground rooms let or occupied contrary to the 103rd section of the Metropolis Local Management Act, be sent to the several vestries and district boards, and that their attention be called to the provisions contained in that section; that the district surveyors be requested to send copies of the returns already made, and that in future such returns be sent in duplicate.”

I have, therefore, to request that you will forward to me a duplicate of the return already made by you; also of each future return; and I would beg to refer to the terms of my former circular, by which the board directed a quarterly return to be made.

I am, dear Sir, yours faithfully,

FREDK. MARRABLE.

To

*Superintending Architect.*

*The Surveyor of the District  
of*



SUPERINTENDING ARCHITECT'S DEPARTMENT,  
1, Greek Street, Soho,

Appendix.

5th April, 1860.

DEAR SIR,

I beg to enclose a copy of the annual report on the examination of the monthly returns by district surveyors, showing, in abstract, the fees received and remaining due in 1859, with the losses and expenses incurred in each district under the Metropolitan Building Act.

As much trouble is occasioned in producing these abstracts of returns in an accurate and trustworthy shape, I must beg of each district surveyor to send in the monthly returns in as perfect a form as possible.

The fees in Part 2 should be cast up in one sum; and in Part 3 a classification to suit the heads of the abstract should be made, and each total given, with the number of works, but not including a second time any work upon which partial payments have been received, except as a receipt. In some instances this is not done, and at the end of the year the imperfect returns have to be completed before any result can be attained. Part 2 of the returns has been relied upon as a correct statement of all works completed each month, and every fee should be entered once in that sheet, when the building is covered in or the fee becomes legally due. The areas and storeys of buildings should be repeated in Part 3, to facilitate examination and identification.

I am, dear Sir, yours faithfully,

FREDK. MARRABLE,

*Superintending Architect.*

To

*The Surveyor of the District  
of*

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## Appendix.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
1, Greek Street, Soho, W.,  
25th October, 1860.

DEAR SIR,

I am directed by the Metropolitan Board of Works to request—in the event of any building being commenced in your district which will project either wholly or in part before the regular line of fronts in the street in which the same is situated, without your having received any notice from this office that the permission in writing of the Metropolitan Board of Works has been obtained, in accordance with the provisions of the 143rd section of the Metropolitan Local Management Act—that you will send a notice to that effect to this office, in order that the board may take such steps for preserving the regular line of frontage as shall to them appear to be expedient. And in case of any projection from a building which shall appear to you to be contrary to the provisions of the 26th section of the Metropolitan Building Act, and of which you have received no notice of permission having been granted, that you will take immediate steps for the removal of the same as the Act directs.

I beg to observe that in every case, as soon as the permission of this board has been obtained, notice will be sent to you to that effect, with a copy of the drawing or other document for your guidance.

I am, dear Sir, faithfully yours,

FREDK. MARRABLE,

To *Superintending Architect.*  
*The Surveyor of the District*  
*of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
6th November, 1862.

DEAR SIR,

By direction of the board I beg to transmit you a copy of a report by the solicitor of the board, relative to the due exercise of the powers of the board under the 56th section of the



Building Act, in cases where other rules may be considered applicable. This question arose on an application by Mr. Charles Fowler, Jun., on behalf of Mr. J. Freeman, for the permission of the board to re-construct a passage-way between the ground floors of Nos. 23 and 24, Great Queen Street, St. Giles, of fire-proof materials, and to carry up a party wall through the remaining storeys of those premises.

I am, dear Sir, yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District  
of .*

RESOLVED—That the said report be approved, and entered on the minutes of the proceedings of this day, and that a copy thereof be sent to each district surveyor, and it is entered accordingly—

SOLICITOR'S DEPARTMENT,

Spring Gardens, S.W.,

*October, 1862.*

Metropolitan Building Act—As to Mr. J. Freeman's  
Application.

In obedience to the order of the board, I have considered the papers with a view to advise the board whether they ought, under the 56th section of the Metropolitan Building Act, to interfere in this case.

I cannot see any reason why the board should interfere in this case—I much doubt the power of the board to do so. The board, under the 56th section, can only interpose, in special cases, where no provision is made in the Building Act as to any particular buildings. It seems to me that section 83 and section 24 apply expressly to this case, and that it is for the district surveyor to see that the Act is carried out in the usual way, and that the board should do nothing more than suggest for the applicant to communicate with the district surveyor, who should see that the requirements of the Act are complied with.

As a rule, I think that the board should never interfere, under the 56th section, where the case is provided for by the legislature under other parts of the Act.

(Signed)

W. W. SMITH.



**Appendix.**  

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
6th August, 1863.

DEAR SIR,

The board have lately considered a complaint relative to the erection of buildings in the back-yards of dwelling-houses, originally intended for wash-houses, but afterwards used as dwellings by Irish and other tenants for the day or week, and accessible from the houses adjoining. The circumstances were such as to preclude a remedy, by reason of the lapse of time; and I am, therefore, directed by the board to address a circular on the subject to district surveyors.

The Building Act gives full powers to the district surveyor to require notice of all works, and full particulars of their nature; and if works are begun without notice, or if preparations for operations are indicated, he may enter premises for the purposes of the Act.

It is, therefore, considered to be his duty to stop every irregular work, and to have it demolished, if need be, in due course of law; or if buildings are proceeding without proper means of access by streets or ways, immediate notice should be given to this board, or other authority having power in the matter.

Difficulties frequently arise under the 29th section as to the application of the rule to back areas or yards of very limited extent, where some small office building is required for the convenience of inhabitants, or where premises originally constructed for dwelling-houses are afterwards converted into shops on the ground storey, and extensions are wanted in the rear. In these cases, crowding of dwellings is increased, as well as danger from fire to adjoining premises; and under such circumstances much care is required on the part of the district surveyor to cause the observance of the Act where the light and air to back windows are interfered with, and the full dimensions of area diminished. Covering over yards on the ground storey for back shops, and lighted with lantern lights, could only be effected where there was no sunk storey, or on the blocking up of any windows in that storey.



The board deem it essential that there should be a strict observance of the rules in regard to these matters. Appendix.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor the District  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,

Spring Gardens, S.W.,

*6th August, 1863.*

DEAR SIR,

I am directed by the Metropolitan Board of Works, to request your attention to the terms of the 37th section of the Metropolitan Building Act (1855), which provides that "If any building is erected, or any work done to, in, or upon, any building by or under the superintendence of any district surveyor, acting professionally or on his own private account, it shall not be lawful for such surveyor to survey any such building for the purpose of this Act, or to act as district surveyor in respect thereof or in any matter connected therewith, but it shall be his duty to give notice thereof to the said Metropolitan Board, who shall then appoint some other district surveyor to act in respect of such matter."

I am further to inform you, that the board consider that the intention of this enactment is, that whilst the district surveyor is not precluded from exercising his profession beyond the limits of the district to which he is appointed, he is, so far as regards that district, jealously to reserve himself from any bias by which he may be influenced in the performance of his public duties.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District  
of*



## Appendix.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
12th October, 1864.

## DANGEROUS BUSINESSES.

DEAR SIR,

I am directed by the Metropolitan Board of Works to forward to you a copy of a letter which they have caused to be sent to the Chief Commissioner of the Metropolitan Police, and to the clerk of each vestry and district board in the metropolis.

As the subject connects itself with the duties of the district surveyor, the board have thought it right in the interest of the metropolitan public, to make you acquainted with the letter enclosed.

Yours faithfully,

GEORGE VULLIAMY,

To *Superintending Architect.*  
*The Surveyor of the District*  
*of*

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens,  
11th October, 1864.

## DANGEROUS BUSINESSES.

7 & 8 Vict. c. 84, s. 54 (1844).

SIR,

The Metropolitan Board of Works has been considering the effect which the Metropolitan Building Act, cap. 84, sect. 54, as it now stands with the cessation of the rights which were saved up to 1864, may have upon the metropolis; and it has occurred to the board that it may not be out of place if they request your attention to the law as it has stood since the month of August, 1864.

The Metropolitan Building Act of 1844 prohibits, after 9th August, 1864, the erection of any buildings within a certain distance from any buildings, public road, or ground in use for any



of the following businesses, viz.:—"The manufacture of gunpowder, or of detonating powder, or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation or ignition, or of vitriol, or of turpentine, or of naphtha, or of varnish, or of fireworks, or of painted table covers, and any other manufacture dangerous on account of the liability of the materials or substances employed therein to cause sudden fire or explosion; and it prohibits persons from establishing or newly carrying on, after 1844, any such business within the prohibited distances."

This Act, however, saved the rights of persons until August, 1864, who had actually carried on, in 1844, businesses of the nature referred to within the prohibited distances.

As now all these saving rights have ceased, it is unlawful for any person to carry on such businesses within the distances, however long they may have been in existence; and the board think it may be useful to draw your attention to the subject, and, at the same time, to request that you will bear in mind that several sections in the Act of 1844 are in force on these subjects. I would also call your attention to the provisions of the Act 23 & 24 Vict. cap. 139, with regard to gunpowder, fireworks, &c.

Your obedient Servant,

GEORGE VULLIAMY,

*Superintending Architect.*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,

Spring Gardens, S.W.,

31st October, 1864.

DEAR SIR,

With a view to improve the practice of builders, and to cause a better observance of the law regarding the construction of overhanging eaves and cornices, I am directed by the board to address to the district surveyors a circular on the subject, as the rules of section 26 of the Building Act do not appear to be uniformly observed, and many streets of houses are in progress with wooden eaves merely lathed and plastered, or cemented on



**Appendix.** — the soffit, and covered with slate as part of the roof, without any corbel of separation at the party walls, as would be required if application were made to the board. The corbel is a great protection against the spread of fire from roof to roof, and in the case of shop fronts it is to a limited extent a requirement of the statute. Section 17 of the Act may give a somewhat similar protection to eaves; for it provides that "every party wall shall be carried up above the roof, flat, or gutter of the highest building adjoining thereto, to such height as will give a distance of 15 inches measured at right angles to the slope of the roof, or 15 inches above the highest part of any flat or gutter, as the case may be."

Section 26 of the Act directs, that "the eaves or cornices to any overhanging roof (except the eaves and cornices to detached and semi-detached dwelling-houses distant at least 15 feet from any other building and from the ground of any adjoining owner), shall, unless the Metropolitan Board otherwise permit, be of brick, tile, stone, artificial stone, slate, cement, or other fire-proof material."

The board are desirous that the above rules should receive more attention than they appear to do in practice; and that where eaves and cornices are not rendered fire-proof as required, applications should be made to the board by the builders or architects in every case.

The object of that condition, as to corbelling out the party wall, which the board annexes to any approvals granted by them, is, that the roof covering and wooden portions of the eaves should not be continuous, but be broken, as provided regarding party walls under section 17.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
26th May, 1866.

Appendix.

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DEAR SIR,

On the 31st of October, 1864, I had occasion to address to district surveyors a circular regarding the construction of overhanging eaves to houses, and the necessity for strictly applying the rules of the Act for the construction of fireproof eaves and cornices.

Since that date, few applications have been made to this board for permission to form the eaves of houses in such manner as they might approve, and yet continuous rows of houses are being built in many suburban parishes, with, apparently, little control over the materials of eaves or cornices, and without requiring the use of fireproof materials.

As the safety of buildings is much imperiled by the prevailing custom in suburban districts, I beg to suggest that, in all cases where the approval of this board is not given, the strictest observance of the rules be required; and it is not enough to assume, as some builders have done, the approval in one case is sufficient to warrant its being followed in any other.

If any observations occur to you on this subject, they might be of use in framing new rules.

Yours faithfully,

GEORGE VULLIAMY,  
*Superintending Architect.*

To  
*The Surveyor of the District*  
*of*



## Appendix.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens,  
15th December, 1866.

### BONDING BRICKWORK.

DEAR SIR,

A case has been decided in the police court at Lambeth, of a special nature, and which it is hoped will not be taken as a precedent in regard to others, as the judge probably did not intend that his decision should so rule.

The facts are these:—

1. A builder proceeded in the usual manner, and under the direction of a local architect and surveyor, to erect four houses of three storeys in height, the basement having walls of 13 inches in thickness, and two storeys, 9 inches.

2. When the roofs came to be finished, arrangements were made for rooms in the roof, thus constructing a fourth storey, and rendering the ground floor storey insufficient in the thickness of its external walls.

3. The party walls were properly constructed.

4. When the district surveyor objected to the irregularity the builder proceeded to thicken the storey, by adding  $4\frac{1}{2}$  inches of brickwork in Portland cement and with iron bond laid at intervals, and by drawing bricks occasionally so as to form some degree of bond.

5. Such proceedings did not satisfy the district surveyor, as the "proper bond" required by the statute was not secured as it might have been had the wall been originally 13 inches thick in that storey.

6. The case thus came before the magistrate, witnesses were examined on both sides, and it was proved that the walls, as they now stood, were better than they could be made without being rebuilt in the upper storeys.

The magistrate dismissed the case, after patient and careful consideration; thus in the particular case feeling himself not justified in dissenting from the strong evidence given as to the work by the builder.



## Appendix.

A complexity of decision and practice hence arises which it is desirable to reconcile in the interest of the public. Twice such a decision, as to adding to the thickness of a wall, has been arrived at ; and in other courts work has been ordered to be pulled down, because it was not properly bonded or was built of improper materials.

It is possible, however, that parties may much misunderstand the effect of the decision. As it was a question so much of fact, it was thought injudicious to attempt to get it reviewed by a superior court; but the board will be most anxious that, if possible, the attention of the district surveyors should be directed to the work of builders being done effectually and properly, and in compliance with the Act.

Yours faithfully,

GEORGE VULLIAME,

*Superintending Architect.*

To

*The District Surveyor of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens,  
17th February, 1866.

DEAR SIR,

To remove a slight misunderstanding respecting the information which is, from time to time, sent to district surveyors from this office relative to the causes of fires in the metropolis, as reported in the daily returns by the fire brigade, I beg to state that such information is sent with the view of directing attention to defects in buildings, whether old or new, that may indicate the necessity for alteration in the reinstatement of the works, or the irregular construction of new buildings. Stoves are also frequently fixed on floors so as to cause fires. In all such cases it appears to be the duty of the district surveyor, under the Building Act, to inspect and ascertain whether the circumstances require his interference to enforce the law; and, if so, to adopt proceedings for penalties, or other remedy.



Appendix.

It is not requisite to report to the board, unless opposition should occur, and further proceedings might be desirable with the sanction and aid of the board.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens,  
29th July, 1867.

WOODEN ENCLOSURES.

DEAR SIR,

The use of wood in the construction of the exterior enclosures of buildings used for trade purposes, and for stables, sheds, and other buildings, appears to indicate that the provisions of the Building Act are not strictly enforced ; and I am, therefore, directed by the board to inquire what means you adopt in your supervision, as district surveyor, to detect the use of improper materials, and what proceedings have been taken by you to effect an amendment of irregular works, constructed of wood.

You will be so good as to endeavour to explain the nature of the difficulties you have experienced in enforcing the Act ; and what portion of these may be attributed to the want of proper evidence, and in what respects the decisions of the magistrates may have aided or thwarted your proceedings.

Such buildings not only operate adversely to the due enforcement of the construction of buildings of brick, stone, &c., but are often the cause of other and more valuable buildings being destroyed by fire ; and as it is now one of the duties of the board to extinguish fires, it is also a primary duty of the board and its officers to prevent their occurrence, by seeing that proper materials are used for that purpose.



Appendix.

In the proposed amendment of the Building Act, clauses have been inserted to exempt small water-closets and privies, and other small office buildings, and also greenhouses, plant-houses, orchard-houses, summer-houses, poultry-houses, and aviaries, under certain conditions as to heating, and distance from other buildings, and continuance of use. It will, however, be some time yet before such provisions can become law; and as questions will occur about summer-houses and small moveable structures in rural districts, it might be prudent not too much to press the present law in reference to such rustic garden arbours. But if, under colour of such erections, sheds or larger buildings were attempted, then the law should be applied.

I may add, that no decision of a superior court has yet affected that given by the Court of Common Pleas, in the case of *Stevens* against *Gourley*, in 1859, where a moveable wooden shop was prohibited, as contrary to the Act; and such cases should be strongly brought to the notice of magistrates, where they may incline to allow wooden erections, under the assumption that they are of the nature of tenants' chattels. That rule may be useful in adjusting the rights of occupiers and owners, but, under the Building Act, a building is not regarded as to its property, but essentially as to its safety in reference to structure and materials; and therefore its moveability is not so important as its inflammability, which it is the duty of the district surveyor to restrict.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District  
of*

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## Appendix.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,

23rd June, 1868.

## CONCRETE BUILDINGS.

DEAR SIR,

As the terms of license and conditions which the board had approved for permitting the use of Portland cement concrete in the construction of buildings have been somewhat altered on a recent revision, I beg to enclose a copy for your information.

1. The test remains the same, and is to be applied when necessary, and ordered by the district surveyor.

2. Where sand is absent in the materials used for concrete, it is to be added in the proportion of one to two, which is about the proportion in Thames ballast. Greasy, loamy, or clayey matter is to be excluded.

3. The proportions of materials and cement are adapted to a change in the mixing. The measure is now six to one.

4. The size of the mixing boxes is varied to suit trade usages.

5. The laying of the concrete is not limited to depth nor mode, but the layers are to be equal all round the building, and efficiently secured.

Persons wishing to use concrete must apply to the board. Recently Messrs. Parr and Strong were allowed to use their patent cellular hexagonal tubes filled one-third with concrete and closed inside with a flanged cover cemented into the tube, for the construction of a dwelling-house at Eltham. This mode of construction has been shown to possess much strength and other advantages in facility of working, and immediate dryness of walls. The composition of the concrete would be the same as specified in the license.

Yours faithfully,

GEORGE VILLIAMY,

*Superintending Architect.*

To

*Surveyor of the District of*



LICENCE OF METROPOLITAN BOARD OF WORKS Appendix.  
FOR USE OF PORTLAND CEMENT IN CONCRETE  
BUILDINGS.

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METROPOLITAN BUILDING ACT, 1855, s. 56.

WHEREAS by the Metropolitan Building Act, 1855, it is provided that buildings to which the rules enacted in the schedules to that Act relative to the construction and materials of walls, are inapplicable, require the special sanction of the Metropolitan Board of Works.

AND WHEREAS it has been shown, to the satisfaction of the said board, that buildings of certain moderate dimensions may be advantageously constructed of Portland cement concrete compounded with proper attention to the quality of the cement and the proportion of it to the concrete materials, and to the due application of a mould or machine for giving coherence to the work during its progress.

AND WHEREAS Mr. \_\_\_\_\_ has applied to the said board for their license and approval for the use of the said concrete in the construction of \_\_\_\_\_

Now, therefore, the Metropolitan Board of Works do hereby approve of and license the use of Portland cement concrete, in the construction of the houses aforesaid, subject to the conditions following, viz.—

1. The Portland cement shall be of the very best quality, ground extremely fine, and weighing not less than 112lbs. to the striked bushel; and capable of maintaining a breaking weight of 350lbs. per square inch, seven days after being made in a mould, and immersed in water during the interval of seven days. Such test, when necessary, and ordered by the district surveyor, to be made at the works of the Metropolitan Board.

2. The other materials of the concrete to consist of clean Thames ballast, or of gravel, or crushed slag from furnaces, or smiths' clinkers, or broken glass, crockery, brick-burrs, or small broken stones, or any hard and durable substance; and each to pass through a screen or mesh not exceeding two inches diameter. Sand to be added to such materials in the proportion of one to two. All such materials to be perfectly clean and free from all greasy, loamy, or clayey matter, and, if necessary, to be washed.



## Appendix.

3. These materials and cement to be mixed in the proportion of not more than six parts of material as aforesaid by measure, to one part by measure of the best Portland cement.

4. In making the concrete, a box 2 feet by 4 feet by 2 feet, or other like proportions, is to be used for the materials, and another box capable of holding one sack or half a cask containing 2 bushels of the cement. The cement and materials are to be turned over at least three times, and thoroughly mixed together with water.

5. The concrete thus composed is to be laid into the walls of the buildings, all round in equal layers, and grouted with cement in the proportion of one of cement to two of clear washed sharp sand after each layer until the walls are completed in height. The grout to be made as mortar first and then thinned with water to the necessary consistence.

6. The above materials and matters are to be well and thoroughly bound together, and fixed and applied by one or other of the processes now in use for concrete building, so that security shall be provided for the complete coherence of the materials and work during its progress, and to guard against the delay, risks and errors of the work being put up otherwise than by a well-arranged mould or machine.

7. The thickness of walls to be equal, at the least, to the thicknesses for brickwork prescribed in the Building Act.

8. Suitable cores to be provided for fireplaces and for connecting them with flues, and also for recesses and flues; or flues may be formed with tubes of earthenware.

9. Door and window frames to be built into the walls.

10. The rules of the Building Act as to the use of timber in walls, and that statute generally, to be observed as in ordinary buildings.

11. Such concrete buildings to be carefully supervised by the district surveyor, and his fees in respect thereof to be one half more than the scheduled fees provided by the Building Act for new buildings or additions. The fees for alterations to be only as scheduled.

*Superintending Architect.  
Chairman of the Metropolitan  
Board of Works.*



SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
20th October, 1868.

Appendix.

DWELLING HOUSES IN MEWS.

DEAR SIR,

The attention of the board has been called at various times to the increasing desire on the part of owners of stables and coach-houses in Mews, to build these premises so as to admit of one storey being occupied as dwellings by the families of those who are engaged about the stables. In other cases, where stables have been erected on speculation in new localities, without any controllable space beyond the limits of the Mews, for the purposes of light and ventilation, these buildings are gradually converted into dwellings, in the expectation that better pecuniary returns may be obtained, but without regard to the physical or moral condition of the residents.

The 29th section of the Building Act contemplates very different arrangements for those buildings *used, or intended to be used* for dwelling-houses. All the rooms of such houses must be lighted and ventilated from a street or alley adjoining, or have in the rear, or on the side thereof, an open space exclusively belonging thereto, of the extent at least of 100 square feet. It is therefore the duty of the district surveyor in every case to apply this salutary and limited provision for ventilation and light, and to prevent the conversion of stables wholly or in part into dwellings, where such space is wanting. Nor ought any temporary or sufferance provision to be allowed to have the place of the permanent and exclusive provision enacted by the statute.

The board, when applied to under the bye-law for the approval of plans for the formation of Mews, have generally allowed them with a width of roadway of 20 feet, which would warrant a height of 20 feet for the stables, under the 85th section of the Metropolis Management Act of 1862. But where streets or footways for dwelling-houses are desired, the board require two entrances, where possible, or a 40 feet width with one entrance; and if the footway is to be 20 feet only, then the surface is to be flagged. In all such cases, the proper open spaces at the rear



Appendix. are also provided, and ought to be exacted by the district surveyor when the sites of the houses and offices are determined.

If any difficulties arise with reference to the due application of the 29th section to any cases in your district, I have to request that they may be stated for the consideration of the board.

Yours faithfully,

GEORGE VULIAMY,  
*Superintending Architect.*

To

*The Surveyor of the District  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens,  
28th September, 1869.

#### DANGEROUS STRUCTURES.

DEAR SIR,

By an Act passed last session, viz., The Metropolitan Building Act, 1869, of which I enclose a copy, the duties under Part II. of the Metropolitan Building Act, 1855, in regard to dangerous structures, have been transferred from the commissioner of police to this board.

The board have, therefore, considered that the duties referred to would best be performed by the district surveyors, at all events in the earlier stages, and for such time as the board may think fit.

The Building Act, Part II., is no doubt well known to you. The duties of the board are to be precisely those formerly discharged by the police; and if you read in sections 69, 71, 72, 73 to 80, the word "board" for "the commissioner," you will be well aware of the duties. The Act comes into operation on the 1st October, 1869, and the board must be prepared at once, and until a more detailed scheme can be laid down, the first duties would seem to be at once giving the board information of any



dangerous structure in your district, the making reports after receiving instructions from the board, and rendering such assistance as may be necessary. There will grow out of this many considerations as to partly finished buildings, and other matters upon which the board may hereafter give more detailed views; but as regards the immediate execution of the salient points of the Act to which I have adverted, I shall be glad to hear from you that the board may rely upon your taking upon yourself these duties, and until otherwise arranged, at the scale of fees as fixed by the board on the 22nd February, 1861.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The Surveyor of the District of  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,

Spring Gardens,

*5th November, 1872.*

UNDERGROUND ROOMS AND CELLARS.

DEAR SIR,

It appears from a recent inquest regarding the death of a person at Mile End, that numerous underground rooms and cellars, wholly unfit for habitation, are let for hire; and the board have considered it desirable that the facts should be ascertained by means of the reports required by law.

You are aware that by the 62nd section of the Metropolis Management Amendment Act of 1862, district surveyors are required to report, in the months of June and December in each year, to the board, and to the vestry and district board in the district in which the surveyor may act, all underground rooms and cellars, occupied or let separately as dwellings, and that are not constructed in conformity with the rules contained in the 103rd section of the Management Act of 1855.

The board has directed that the reports shall be made in the first week of ensuing month of December, and I enclose copies of



**Appendix.** the schedules formerly used for the purpose. You may obtain any requisite number on application. Duplicates have also to be sent by you to the vestry or district board.

The first schedule applies to underground rooms or cellars occupied separately as dwellings at or before 14th August, 1855, and which may continue to be so let or occupied if possessed of certain requisites. In the schedule a column is given to each requisite to facilitate entry.

The second schedule applies to such rooms or cellars NOT let or occupied separately as dwellings at or before 14th August, 1855, and which may NOT be let or occupied as separate dwellings, unless possessing like requisites and certain others, all to be indicated in separate columns.

In entering the particulars in the respective columns it will be convenient to observe some uniform rule; and I think when the measurements are found to be sufficient, this might be indicated by the word "full," or when any deficiency occurs the dimensions found should be entered in one or two lines in the several columns.

The 104th section of the Act of 1855 gives power to district surveyors to enter underground rooms and cellars between the hours of 9 o'clock in the morning and 6 o'clock in the evening; and the 62nd section of the Act of 1862 explains the previous enactment, "that every room or cellar in which any person passes the night, shall be deemed to be occupied as a separate dwelling within the meaning of the Act," will be satisfied by "such evidence as may give rise to a probable presumption [or reasonable grounds, see section 104] that some person passes the night in such room or cellar."

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The District Surveyor  
of*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
27th April, 1875.

Appendix.

METROPOLITAN BUILDING ACT, 1855, SCHEDULE 1, &c.

*Memorandum relative to the composition of Mortar.*

In several recent instances buildings have fallen, or had to be demolished, because the mortar was not properly compounded: and probably it may be useful to those engaged in the building trade to receive the following information regarding the meaning of the term "mortar," as used in the Metropolitan Building Act, and as applied when the builder fails to amend his work or materials when called upon to do so.

The statutory requirements of the Building Act are for the public benefit, and will not be allowed to be tampered with, so as to produce an inferior structure, through insufficient materials or careless workmanship.

Mud and horse-dung from the road scrapings, mixed with a little inferior or exhausted lime, cannot be used as mortar, nor can garden mould be deemed a substitute for clean sand.

"Mortar" is a technical term, intended to indicate a composition consisting of two essential ingredients, lime and clean sand, in the proportion of one part of lime to three, and sometimes two, of sand, mixed and worked up with water into a suitable consistency, to cause the layers of brickwork to be bound together, when the mortar chemically sets.

No definition of such a material is necessary, as the meaning of the term is to be found in scientific books, and properly qualified persons are directed by the Act to be examined by the Royal Institute of British Architects, and could only be appointed as officers by the board after obtaining a certificate of competency to perform the duties under the Building Act.

The district surveyor sometimes has to object to soft, defective, or broken bricks, when used, whether with good or bad mortar. Such bricks are not fitted to form bonded work, where strength and security of construction are demanded. If such materials were attempted to be used under an architect's specification, and contrary thereto, they would certainly and properly be disallowed.

GEORGE VULLIAMY, *Superintending Architect.*



Appendix.

SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
27th April, 1875.

## METROPOLITAN BUILDING ACT, 1855, SCHEDULE 1, &amp;c.

*Mortar.*

DEAR SIR,

A case has occurred at Hammersmith, in which the district surveyor has succeeded in obtaining a conviction against a builder, who constructed a building with refuse or earth, instead of mortar properly compounded with lime and clean sand; and I beg to call your attention to the circumstances, in order that you may be enabled to adopt similar proceedings, when any builder fails to amend his work or materials, when called upon by you to do so.

A house was built with mortar, mixed with mud and horse dung; and the district surveyor summoned the builder to show cause why the building should not be demolished.

The magistrate asked, What is mortar? and why it was not defined?

It was shown by reference to scientific books that "mortar" was a technical term, intended to indicate a composition consisting of two essential ingredients, lime and clean sand, in the proportion of one part of lime to three, and sometimes two, of sand, mixed and worked up with water into a suitable consistency, to cause the layers of brickwork to be bound together, when the mortar chemically sets. A definition of such a material was not deemed requisite, as properly qualified persons were directed by the Act to be examined by the Royal Institute of British Architects, and could only be appointed as officers by the board after obtaining a certificate of competency to perform the duties.

A specimen of the stuff was produced, and the magistrate said it was not in his opinion mortar, and was unlike anything he ever saw before. He, therefore, accepted the scientific opinion and ordered the demolition of the work.

It thus would appear, that if a case is well stated, and its technical bearings explained, an effectual support of the public officer



in the performance of his duty may be expected; and the builder who would tamper with the law, and produce an inferior structure, through insufficient materials or careless workmanship, would be checked.

Sometimes it is also alleged that the district surveyor cannot control the brickwork used with or without bad mortar; but if care be taken to bring specimens before the magistrate, he cannot fail to see that if soft and defective or broken bricks are used, such bricks are not fitted to form bonded work, where strength and security of construction are demanded. If such materials were attempted to be used under an architect's specification, and contrary thereto, they would certainly and properly be disallowed.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To  
*The Surveyor of the District  
of*

*Memo.*—In a case of gross infringement of the Act with respect to the materials, notice should be sent to the board.

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,  
20th August, 1877.

DEAR SIR,

The Metropolitan Board of Works, at their meeting on Friday, the 10th instant, directed me to communicate to you the result of a summons taken out by Mr. T. E. Knightley, district surveyor, against a builder, to show cause why he should not take down the whole of the flank wall of a building in the district of Hammersmith, in consequence of it being constructed of soft and broken bricks not properly bonded and solidly put together.

The defendant's solicitor called two builders and the defendant himself to endeavour to prove that the wall was properly constructed, but Mr. Paget, the magistrate, without calling upon the board to adduce any further evidence than that of Mr. Knightley, the district surveyor, said he was satisfied that it was not properly



Appendix. constructed, and he ordered the defendant to take the wall down, and to pay to Mr. Knightley £1 15s. 6d. costs.

This decision, as you will observe, corresponds with the views expressed in the circular to you of the 27th April, 1875, with reference to the use of soft and defective or broken bricks.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The District Surveyor.*

SPRING GARDENS,

12th August, 1878.

METROPOLIS MANAGEMENT AND BUILDING ACTS AMENDMENT  
ACT, 1878.

SIR,

I am instructed by the board to request your attention to the provisions of the above Act of Parliament, especially so far as it relates to the width of thoroughfares. You will observe that any person building even a single house upon a carriage-way must set back the house or the boundary of the property 20 feet from the centre of the roadway, and in the case of footways must set the house or the boundary of the property 10 feet back from the centre of the roadway, and these provisions apply *primâ facie* to every building commenced subsequently to the 22nd day of July, 1878, when the Act received the Royal assent.

Another provision of the Act is, that a way laid out for foot traffic only shall not be used for carriage traffic, unless made of the full width of a carriage-way; and even existing foot-ways cannot be used for carriages except by the order of the magistrate.

The board would feel much obliged if you would report to Mr. Vulliamy, the superintending architect, any case in which it seems that the before-mentioned provisions of the Act are being violated.

I am, Sir,

Your obedient Servant,

J. E. WAKEFIELD,

*Clerk of the Board.*

To

*The District Surveyor.*



SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,

Appendix.

*2nd February, 1880.*

DEAR SIR,

I am directed to forward the accompanying forms of notice required under the bye-laws made by the board in pursuance of the provisions of the Metropolis Management and Building Acts Amendment Act, 1878.

Form A to be used in respect of any breach of the bye-laws Nos. 1 and 2 ;

Form B on the non-deposit of plans and sections of public buildings, and buildings to which section 56 of the Metropolitan Building Act, 1855, applies ; and

Form C in cases in which you may require a plan, or plans and sections of any proposed house or other building to be produced for your inspection.

These forms of notice have been approved and sealed by the board, in accordance with the requirements of the Metropolitan Building Act, 1855.

I am, dear Sir,

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The District Surveyor.*

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SUPERINTENDING ARCHITECT'S DEPARTMENT,  
Spring Gardens, S.W.,

*23rd November, 1880.*

METROPOLITAN BUILDING ACT, 1855.

Metropolis Management and Building Acts Amendment Act,  
1878 (41 & 42 Vict. c. 32).

BYE-LAWS.

*Mortar.*

DEAR SIR,

A case has occurred at Wandsworth in which the district surveyor succeeded in obtaining a conviction under the bye-laws against a builder who constructed a building with refuse or earth



**Appendix.** instead of mortar properly compounded with lime and clean sand, and I am instructed by the board to call your attention to the facts, in order that you may adopt proceedings when any builder fails to use proper materials.

On the 23rd September, Mr. J. A. J. Woodward, the district surveyor for central Lambeth and part of Battersea, found that a builder in Battersea was using mortar composed of earthy matter, and he gave notice requiring the defendant to conform to the bye-laws. Finding he did not do so, the district surveyor took out a summons against him, which was heard before Mr. Paget, at Wandsworth, on the 30th October, and the defendant was convicted and fined £3 penalty and £2 costs.

There are several modes of proceeding for this class of offence:

- 1st. By summons under the bye-laws for the full penalty of £3, and the continuing penalty of £1 10s. a day so long as the works proceed.
- 2nd. By section 17 of the Metropolis Management and Building Acts Amendment Act, 1878, a penalty of not less than 10s., and not more than 40s., for every day from the time of service until the building is altered, pulled down, or removed, can be obtained against the builder.

The summonses under the bye-law, and under section 17 of the above Act, when necessary, can be taken out together.

- 3rd. By proceeding to remove the building under section 17 of the above Act, if the notice is not complied with.

The board, upon application, will be ready to advise the district surveyors which course of proceeding in any particular case may be the most expedient.

Yours faithfully,

GEORGE VULLIAMY,

*Superintending Architect.*

To

*The District Surveyor.*

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SPRING GARDENS, S.W.,  
25th May, 1881.

Appendix.

SIR,

A dispute having occurred between two of the district surveyors under the Metropolitan Building Act, whose districts adjoin one another, one of them, instead of submitting the question to the board as the authority under the Act, sought a settlement of it by means of proceedings before a magistrate.

The facts of the case are stated in the accompanying report, made by the Building Act Committee, which the board adopted, directing me at the same time to send a copy to every district surveyor for his information.

You will observe that the report concludes with an expression of regret that the case was not submitted to the board for settlement, and I have written to the two district surveyors concerned to request that this course may be adopted in case of any similar difference in future.

I am, Sir,

Your obedient Servant,

J. E. WAKEFIELD,

*Clerk of the Board.*

To

*The District Surveyor.*

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REPORT MADE TO THE BOARD BY THE BUILDING ACT COMMITTEE ON THE SUBJECT OF A DISPUTE BETWEEN TWO DISTRICT SURVEYORS.

*(Extracted from the Minutes of the Board of the 20th May, 1881.)*

Your committee have considered the report, which appeared in the *Times* newspaper of the 3rd March last, of proceedings at the Mansion House, before Alderman Sir Andrew Lusk, on the adjourned hearing of a summons obtained by Mr. Collins, district surveyor for the Eastern Division of the City, against Messrs. Trollope and Sons, for having neglected to give him notice as to certain building operations within his district, from



## Appendix.

which it appeared that the notice had by mistake been given to Mr. Power, the surveyor for the adjoining Southern District of the City, and that Mr. Power had subsequently sent to Mr. Collins the notice and the fees which he had received, but had failed to attend the court and give an explanation of the matter, referred by the board on the 4th March last (No. 7). Your committee find that in April, 1880, Messrs. Trollope gave notice to Mr. Power of their intention to erect premises at Nos. 27 and 28, Nicholas Lane, King William Street, City. Mr. Power having referred to the map supplied to him some years since by the Commissioners of Sewers, believed the proposed buildings to be in the Ward of Candlewick, in his district. He surveyed them during construction, and on their completion in November last received from Messrs. Trollope his fees in respect of the same, amounting to £10 17s. 6d. On the 5th day of that month Mr. Collins discovered the erection of the buildings, which he believed to be in his district, and wrote to Messrs. Trollope, informing them that no notice of the works had been given to him in accordance with the Building Act. The builders replied that the notice had been given to Mr. Power, who had accepted the same and received his fees. Mr. Collins feeling sure, after making careful inquiries of the ward beadle and the tax collector, that the premises were in his district, applied to Mr. Power for the fees. A long correspondence ensued between the district surveyors, and in the result Mr. Collins took out a summons against Messrs. Trollope for having neglected to give him, as district surveyor, the required legal notice of the works. The case was heard at the Mansion House on the 23rd February last, when the evidence showed that the main portion of the buildings was in Langbourn Ward, within Mr. Collins's district. In consequence of the non-attendance of Mr. Power, the further hearing of the case was adjourned for a week. On the morning of the day of the adjourned hearing Mr. Power paid to Mr. Collins out of the fees received, the sum of £8 10s., being the amount due in respect of the main portion of the buildings, retaining the fee of £2 7s. 6d. received in respect of alterations to the party wall within his district, and respecting which there was no dispute. He also paid Mr. Collins £1 3s. for expenses, and believing the matter to be settled, did not consider it necessary to attend the court upon the adjourned hearing, when Mr. Collins with-



drew the summons. Your committee having received and carefully considered the written statements of both the district surveyors with reference to this dispute, regret that the case was not submitted to the board for settlement, and that Mr. Collins should have deemed it necessary to summon the builders before a magistrate for the recovery of fees which he knew had been paid to another district surveyor. Your committee recommend—

“That Mr. Collins and Mr. Power be informed that the board regret that the case was not submitted to them for settlement, and have to request that this course may be adopted with respect to any similar matter of difference which may arise in future, prior to any action being taken before a magistrate.”

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## RULES AND REGULATIONS AS TO APPLICATIONS TO METROPOLITAN BOARD OF WORKS.

### SUPERINTENDING ARCHITECT'S DEPARTMENT.

The following are the rules and regulations in this department with respect to applications to the board :—

#### 1. PROJECTIONS, GENERAL LINES OF BUILDINGS, &c.

All applications must be made in writing on foolscap paper, setting forth the nature of the building, work, or other matter ; the situation and district in which the same is to be built ; also describing all necessary particulars as to the proposed mode of construction ; and stating under which section of the Act the sanction is sought ; to be accompanied by a block plan in duplicate (*a*) on tracing cloth, drawn to a scale of 44 feet to one inch for general lines of buildings, and 22 feet to one inch for projections. The dimensions must be figured thereon, and the situation of the building shown with reference to adjoining buildings, and to the ground of any adjoining owner.

No application relative to any building, structure, or erection, proposed to be erected beyond the general line of fronts of buildings under section 75 of the Metropolis Local Management Amendment Act, 1862, or the 26th section of the Metropolitan

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(*a*) A third copy of plans is required when approved.



**Appendix.** Building Act, will be granted, unless a notice that such application is to be made shall have been given to or left by an officer of the board for the occupiers of the two adjoining buildings on each side of the proposed building; and no such application will be brought before the board until after the expiration of fourteen days from the date of such notice, unless the parties upon whom such notice has been served shall have previously sent in their reply to this office.

## 2. FORMATION OF NEW STREETS.

(Bye-law, and sections 98, 99, and 112.)

Applicants for the approval of the width of streets are required to furnish two copies (*a*) of the application and plans in duplicate; the plans to be drawn to a scale of 88 feet to the inch, or five feet to one mile. A copy is forwarded to the vestry or district board in whose locality the proposed new street is situate, with an intimation that within fourteen days thereafter suggestions may be made with reference to such application, as in the case of lines of frontage. A key plan of the locality and two copies of longitudinal sections showing intended levels of proposed roads are also required.

No plan submitted for the formation of a new street can be entertained, unless the applicant, at the same time, proposes the name to be given to such street, not elsewhere in use.

The name of each street, as approved by the board, will have to be affixed on posts at both ends of such street until the houses are built, when the name must be affixed according to law.

## 3. FURNACE CHIMNEY SHAFTS, IRON BUILDINGS, &c.

(Section 56, Metropolitan Building Act, 1855.)

All builders or other persons who may be desirous of erecting any chimney shaft of a steam engine, brewery, distillery, or manufactory, or any iron building or other building to which the rules of the Metropolitan Building Act, 1855, are inapplicable, shall, before commencing any such building, make an application to this board requesting their approval thereof, setting out a plan and section (with all scantlings figured) of the proposed

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(*a*) Two further copies of approved plans are required; one of which is signed and returned to the applicant.



building, and such other necessary particulars as may be required by the board. The scale of drawings must be one quarter of an inch to one foot.

When a chimney shaft is applied for, the arrangements to be made for the consumption of the smoke from the furnaces with reference to the sanitary Acts of 1866, must be shown on plan.

*Note.*—The following are the provisions of the Sanitary Act, 1866 (29 & 30 Vict. c. 90), with regard to smoke.

Section 19. The word “nuisances” under the Nuisances Removal Acts shall include “any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used in such fireplace or furnace, and is used within the district of a nuisance authority, for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gaswork, or in any manufactory or trade process whatsoever.

“Any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance.

“Provided, first, that in places where at the time of the passing of this Act no enactment is in force compelling fireplaces or furnaces to consume their own smoke, the foregoing enactment as to fireplaces and furnaces consuming their own smoke shall not come into operation until the expiration of one year from the date of the passing of this Act :

“Secondly. That where a person is summoned before the justices in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used in such fireplace or furnace, the justices may hold that no nuisance is created within the meaning of this Act, and dismiss the complaint, if they are satisfied that such fireplace or furnace is constructed in such manner as to consume, as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having the charge thereof.”

#### 4. OFFICE FEES.

(Section 60, Metropolitan Building Act.)

And it was further ordered—That on the deposit of such last-mentioned applications (No. 3), a fee of five shillings be paid



**Appendix.** into the hands of the cashier of the board, and a further fee of five shillings on obtaining the order of the board approving of the design of such building; and in no case will the work be allowed to proceed until the fees are paid.

#### 5. DUPLICATE DRAWINGS.

(Section 61, Metropolitan Building Act.)

In the event of the sanction of the board being granted, duplicate drawings or tracings on cloth must be supplied by the applicant for transmission to the district surveyor for his guidance.

#### 6. LICENSES FOR KEEPING PETROLEUM.

(Acts, 1871—79.)

Applicants for licenses under these Acts are to send full particulars and a plan of the premises proposed to be used or adapted for the safe keeping of petroleum, with a view to each place being examined and reported upon by the superintending architect of the board.

Fourteen days previously to the consideration by the board of an application for a license under the Petroleum Acts notice of such application has to be affixed to the premises in respect to which such license is applied for; such notice being affixed with the consent of the applicant, who is to be responsible for its remaining where placed.

#### 7. NAMING STREETS AND NUMBERING HOUSES.

(Metropolis Management Amendment Act, 1862, sect. 87.)

Persons building continuous blocks of houses or streets would facilitate their own operations with reference to leases, and the subsequent numbering required by the Metropolitan Board of Works under the statute of 1862, by observing the practice at present followed in numbering houses, thus,—

1. St. Paul's Cathedral is recognized as a central point; and the numbering of houses when altered, and also in new streets, begins at the end or entrance of the street nearest to that building, but where both entrances to a street are about equally distant from that building, the numbering begins at the entrance abutting on the most important thoroughfare.



Appendix.

2. Taking, therefore, the sides of the streets as left and right (assuming that the back is toward St. Paul's), the odd numbers will be assigned to the left hand side, and the even numbers to the right hand side.
3. No name is to be used for a street unless with the approval of the board; and it must be a name consisting, if possible, of one word, with the addition of "street" or "road," &c., not already in use in the metropolis in street nomenclature. Only such streets as are leading thoroughfares of considerable length can be designated as roads.
4. Name for terraces, or places, or other blocks of houses, and sections of streets, and usually known as subsidiary names, will not be recognized; nor such names as are already in use for provincial towns and postal places.

3. NOTICE TO PREVENT THE UNAUTHORIZED ADOPTION OF  
NAMES FOR NEW STREETS.

1. A strict observance of the provisions of section 87 of the Local Management Act of 1862 regarding names of streets is hereby enjoined on all builders, owners of land, and surveyors, or persons whom it may concern.

That Act provides that—

- (1.) Before any name is given to any street, notice of the intended name shall be given to the Metropolitan Board of Works.
- (2.) The Board may, by notice in writing given to the person by whom notice of such intended name has been given to them, at any time within one calendar month after receipt of such notice, object to such intended name.
- (3.) It shall not be lawful to set up any name to any new street in the metropolis until the expiration of one calendar month after notice thereof has been given as aforesaid to the said board, or to set up any name objected to as aforesaid.
- (4.) If any person set up any name contrary to the enactment, he shall for every offence forfeit a sum not exceeding forty shillings.



ppendix.

2. If any unauthorized street name is marked on a plan for the formation of a sewer, any action for the approval of such plan may be withheld until such name has been approved by the board; or, if found objectionable, until an approved name has been substituted by which such street and sewer may be properly recorded and known.
3. The person making such application will be held liable to the board for any penalty incurred under the statute.
4. This notice is to be considered a general order made for the guidance of vestries and district boards in the exercise of their powers and duties in relation to sewage, in pursuance of the 138th section of the Local Management Act, 1855, and 83rd section of the Act of 1862, and also section 202 of the Act of 1855 (which Acts are to be construed together as one Act, see section 110 of the Act of 1862).

Sealed by order, June 30th, 1876.

L. S.

#### 9. CERTIFIED COPIES OF ORDERS.

Any person interested in property affected by any order of the board for re-naming streets or re-numbering houses, to be permitted, on application, to make a copy of the order and a tracing of the plan attached thereto; or a certified copy of such order and plan to be furnished to him on his paying the actual cost of making the same.

Copies of orders and plans for re-numbering houses, &c., to be made in the superintending architect's department, and to be certified by the clerk of the board.

The charge for each copy order, &c., to be an average one of one shilling and sixpence.

#### 10. GENERAL LINE OF BUILDING QUESTIONS.

The superintending architect to the Metropolitan Board of Works having to decide, under the 75th section of the Metropolis Management Amendment Act, 1862, the general line of



buildings in any street, place, or row of houses in which any building, structure, or erection is built beyond such general line without the consent in writing of the Metropolitan Board of Works, in case the distance of such line of buildings from the highway does not exceed 50 feet, or within 50 feet of the highway, when the distance of the line of buildings therefrom amounts to or exceeds 50 feet, notwithstanding there being gardens or vacant spaces between the line of buildings and the highway, the following rules as to proceedings are to be observed,—

1. Persons interested in the buildings objected to are to be heard by the superintending architect.
2. They may be heard on any Thursday before Twelve o'clock in the forenoon, on giving two days' notice at the least.
3. A plan to a large scale, of 44 feet to the inch, will be required to show the line of buildings and projections in the street, place, or row of houses in question.

#### 11. DISAGREEMENTS BETWEEN DISTRICT SURVEYORS AND BUILDERS AS TO PUBLIC BUILDINGS.

In any case in which a disagreement shall arise between the district surveyor and the builder, or building surveyor, under the provisions contained in the 30th section of the Metropolitan Building Act, as to the mode of constructing any public building, and as to which the decision of the board becomes necessary, the question may be brought before the board by either of the parties to the difference. A written statement setting forth the facts of the case, together with drawings and all necessary particulars, are to be forwarded, upon receipt of which the Superintending Architect will communicate with the other party and require him to furnish similar information in support of his case. When this is done, the whole matter is to be laid before the board, before whom the parties will be required to appear, and if deemed necessary, with witnesses.

*June, 1881.*

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Appendix.

SPRING GARDENS, S.W.,

4th July, 1882.

SIR,

I have been directed by the board to send you a copy herewith of the Metropolis Management and Building Acts Amendment Act, which has been passed this session, and to request that you will be good enough to report to the board as early as practicable whether there are any cases within your district to which the provisions of the Act apply. If there are any such cases, you will be good enough to specify them.

I am, Sir,

Your obedient Servant,

J. E. WAKEFIELD,

*Clerk of the Board.**T. L. Donaldson, Esq.*

SPRING GARDENS.

12th August, 1882.

METROPOLIS MANAGEMENT AND BUILDING ACTS AMENDMENT  
ACT, 1882.

SIR,

On the 4th of last month I sent you, by direction of the board, a copy of the Act above mentioned, and asked you to be good enough to report to the board whether there were in your district any cases to which the provisions of the Act would apply.

This request was in general terms, and the board has now thought it desirable to specify the points to which it wishes the district surveyors to be good enough to give their attention, with a view to bringing under the board's notice any cases such as are referred to in the various sections of the Act.

Will you, therefore, be good enough hereafter,—

- (1.) To give special attention to cases where galleries may be carried across a street, from one side to the other.



- (2.) To give notice to the board of any temporary or movable wooden structures erected without a license from the board. (See sect. 13 of the Act.)
- (3.) To call the attention of the board to any buildings in course of erection in contravention of the requirements of the 14th section of the Act, relative to the open spaces to be left in the rear of buildings.
- (4.) To report to the board any case in which it is proposed to convert or alter a building, erected for a purpose other than a public purpose, into a public building, within the meaning of the Metropolitan Building Act, 1855.
- (5.) To call the attention of the board to any dilapidated or neglected buildings, such as are referred to in sect. 17 of the Act.

I am, Sir,

Your obedient Servant,

J. E. WAKEFIELD,

*Clerk of the Board.*

*The District Surveyor  
of*

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SPRING GARDENS, S.W.,

12th August, 1882.

METROPOLIS MANAGEMENT AND BUILDING ACTS AMENDMENT  
ACT, 1882.

SIR,

It would be a great assistance to the board in carrying out the provisions of this Act of Parliament if the vestries and district boards would bring under the notice of the board any cases in their respective districts which appear to require attention. The board has requested the district surveyors to report any cases which come under their observation, and, if the vestries and district boards would be good enough to do the same, the exercise of the board's powers in the public interest would be much facilitated.



**Appendix.**      The cases which you are asked to bring under the board's  
— notice are these :—

- (1.) Where streets intended for foot traffic only are being formed, and the ground laid out for building purposes.
- (2.) Where temporary or movable structures have been erected without a license from the board.;
- (3.) Where there are any dilapidated or neglected buildings in your parish or district.

I am, Sir,

Your obedient servant,

J. E. WAKEFIELD,

*Clerk of the Board.*

*The Clerk to the Vestry of*

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## APPENDIX (F).

Appendix.

### I.—MEMORANDA AND SUGGESTIONS TO BUILDERS BY PROFESSOR DONALDSON, DISTRICT SUR- VEYOR OF SOUTH KENSINGTON.

DISTRICT OF SOUTH KENSINGTON,

Office: 17, Onslow Gardens, S.W.,

June, 1875.

SIR,

I have felt it to be my duty to send for general information to every one of my builders in South Kensington the instructions received by the district surveyors from the metropolitan board, in regard to very important subjects connected with building operations: the composition of mortar, unsound bricks, and careless workmanship.

I have also drawn up further suggestions upon some details too often neglected by foremen and workmen. These I trust will be accepted as a friendly caution, in order to carry out the Act in its full spirit, to insure sound construction, and to protect the public and the builder. Inattention to such matters may involve serious ultimate consequences, and are causes constantly arising for great and anxious supervision by district surveyors and their assistants.

I have therefore to request the favor of your *personal* direction to your foremen and workmen, to ensure their strict compliance with the Act upon those points, and thus maintain the hitherto unimpeachable character of the building operations in the South Kensington District.

Believe me, Sir, yours faithfully,

THOS. L. DONALDSON, D.S.



## Appendix.

## THE METROPOLITAN BUILDING ACT, 1855.

## DISTRICT OF SOUTH KENSINGTON.

Memoranda and Extracts from certain requirements of this Act;  
and also suggestions to Builders.

Due Notice must be given Two Days before any Work is begun.

A Builder neglecting this incurs a Penalty of £20.

The walls are to be built of brick, stone, or other hard and incombustible substances *properly bonded and solidly put together* with mortar or cement (Sch. 1st, Rules 1 & 2.) The foundations must rest on the solid ground, or upon concrete, or upon other solid substructure (Sch. 1, Rule 1.) [The concrete, where used, should project at least four inches beyond the lower course of footings on each side.] The thickness of walls is regulated by the length and total height, to level of topmost storey, for particulars of which refer to Schedule 1, Parts I. & II. The footings on each side of a wall must be at least equal to one half the thickness of the wall at its base, not less in height than half such thickness, and must diminish at each course by regular offsets (Sch. 1, Rule 8.) Parapets to party walls must be carried up 15 inches above the roof, flat, or gutter adjoining (s. 17).

[The mortar must consist of fresh lime and clean sharp grit or sand, with no admixture of earth or mould, and be thoroughly mixed and worked up together.]

[The bricks must be sound, at least  $8\frac{1}{2}$  inches in length, and no soft or defective bricks can be allowed. Bats should be sparingly used, and in centres of walls, and should be well picked.]

[Wide openings for windows in external walls should have stout brassummers or strong iron bars, to prevent settlements; and any piers or mullions should be incombustible.]

Recesses in external walls must have backs  $8\frac{1}{2}$  inches thick and then not to exceed half of the whole area of vertical face or elevation of wall. In party walls the backs of recesses must be 13 inches thick, arched over, and not to exceed half of whole area of wall (s. 13).

## CHIMNEYS AND FLUES.

The breast of every chimney and the front, with, partition, and back of every flue, must be at least 4 inches in thickness (S. 20,



## Appendix.

Rule 6.) The backs of all openings to chimneys built in party walls must be at least  $8\frac{1}{2}$  inches thick from the hearth up to the height of 12 inches above the mantel (S. 20, Rule 7.) The inside and outside of all flues, except where forming the outer face of an external wall, must be *rendered* or lined with fire-proof piping (S. 20, Rule 4.) [The withes and fronts of flues should be built of *whole bricks*, to ensure strength and sound construction.] The jambs to chimney openings must in no case be less than  $8\frac{1}{2}$  inches wide (S. 20, Rule 5); and where the breast projects from the wall more than  $4\frac{1}{2}$  inches, and the jamb on either side of opening is less than  $17\frac{1}{2}$  inches wide, a chimney bar must be put with *caulked ends*, and built into the jambs not less than  $8\frac{1}{2}$  inches on either side (S. 20, Rule 3).

All chimney stacks must be built to a height of not less than 3 feet above the roof, flat, or gutter adjoining thereto (S. 20, Rule 9).

Hearths of stone or other incombustible substance, 12 inches longer than the width of the opening, to extend 18 inches wide in front of the breast, to be laid either on the solid ground or upon brick trimmers, or upon solid incombustible bearers not less than 7 inches thick (S. 20, Rules 11, 12, 13).

No chimney to be corbelled out except above level of ceiling of ground storey, and then not to project more than thickness of the wall (S. 20, Rule 1).

No chimney breasts attached to party walls to be cut away, unless under certificate of district surveyor (S. 20, Rule 15).

## TIMBER AND WOODWORK.

No bond timber or wood plate shall be built into any party wall. The ends of any beam or joist bearing on such walls shall be at least  $4\frac{1}{2}$  inches distant from the centre thereof (S. 15). No timber or woodwork shall be placed in any wall or chimney breast *nearer than 12 inches* to the inside of any flue or chimney opening; nor under any chimney opening within 18 inches of the upper surface of the hearth to the same; nor within 2 inches from the face of brickwork or stonework of any chimney, where the thickness of the same is less than  $8\frac{1}{2}$  inches, unless the face of the brick or stonework is rendered (S. 20, Rule 17).

[Wrought iron bars or tubing may with great advantage be used for short trussing joists to fireplaces.]



**Appendix.**  

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All woodwork fixed in external walls, except loop-hole frames, bressummers and storey posts and shop fronts, must be set back 4 inches from the face of such wall (S. 14).

No hot-air or steam pipes to be fixed nearer than 6 inches to incombustible materials (S. 21).

No hot-water pipes nearer than 3 inches (S. 21).

Every habitable room to be at least 7 feet high (S. 23).

Clear open space of 100 feet (S. 23) superficial area must be given to every dwelling, unless all the rooms can be lighted and ventilated from a street or alley adjoining (S. 29).

Greenhouses are *not exempted*, except so far as regards the woodwork of the sashes, doors, and frames (S. 6).

These memoranda and suggestions do not embrace the whole of the regulations particularized in the Act. They are meant merely to draw attention of the foremen and workmen to *some* of the more prominent points *too often overlooked or neglected by them*.

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## II.—HEADS OF CONDITIONS OF BUILDERS' CONTRACTS,

Appendix.

Sanctioned by the ROYAL INSTITUTE OF BRITISH ARCHITECTS.

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1.—The contractors are to provide everything of every sort and kind which may be necessary and requisite for the due and proper execution of the several works included in the contract according to the true intent and meaning of the drawings and specification taken together, which are to be signed by the architect and the contractors, whether the same may or may not be particularly described in the specification or shown on the drawings, provided that the same are reasonably and obviously to be inferred therefrom, and in case of any discrepancy between the drawings and the specification, the Architect is to decide which shall be followed.

2.—The Contractors are to conform in all respects to the provisions and regulations of the Metropolis Local Management Act and the Metropolis Buildings Act, and to the regulations and bye-laws of the Metropolitan Board of Works, and of the local authorities, and they are to give all notices required by the said Acts to be given to any local authorities, and to pay all fees payable under any of the said Acts to any such authorities, or to any public officer in respect of the works.

3.—The Contractors are to set out the whole of the works, and during the progress of the works to amend, on the requisition of the Architect, any errors which may arise therein, and upon request are to provide the necessary appliances, or furnish the necessary vouchers to prove that the several materials are such as are described. The Contractors are to provide all plant, labour, and materials, which may be necessary and requisite for the works; all materials and workmanship being the best of their respective kinds; and the contractors are to leave the works in all respects clean and perfect at the completion thereof.

4.—Complete copies of the drawings and specification signed by the Architect are to be furnished by him or by the Measuring Surveyor to the Contractors, for their own use, and the same, or copies thereof, are to be kept on the buildings in charge of a



**Appendix.** — competent foreman, who is to be constantly kept on the ground by the Contractors, and to whom instructions can be given by the Architect. The Contractors are not to sub-let the works, or any part thereof, without the consent in writing of the Architect.

5.—The Architect is to have at all times access to the works, which are to be entirely under his control. He may require the Contractors to dismiss any person in the Contractors' employ upon the works who may be incompetent or misconduct himself, and the Contractors are forthwith to comply with such requirement.

6.—The Contractors are not to vary or deviate from the drawings or specification, or execute any extra work of any kind whatsoever, unless the same be required to comply with any of the provisions of any of the Acts of Parliament, regulations, or bye-laws hereinbefore mentioned, or unless upon the authority of the Architect, to be sufficiently shown by any order in writing, or by any plan or drawing expressly given and signed or initialed by him as an extra or variation, or by any subsequent written approval signed or initialed by him. In cases of day work, all vouchers for the same are to be delivered to the Architect or Clerk of the Works, at latest during the week following that in which the work may have been done, and only such day work is to be allowed for, as such, as may have been authorized by the Architect to be so done, unless the work cannot from its character be properly measured and valued.

7.—Any authority given by the Architect for any alteration or addition in or to the works is not to vitiate the contract, but all additions, omissions, or variations made in carrying out the works for which a price may not have been previously agreed upon, are to be measured and valued, and certified for by the Architect, and added to or deducted from the amount of the contract, as the case may be, according to the schedule of prices annexed, or where the same may not apply at fair measure and value.

8.—All work and materials brought and left upon the ground by the contractors, or by their order, for the purpose of forming part of the works, are to be considered to be the property of the employer, when payment shall have been made of the amount of any certificate in which the value thereof shall be included, and in such case the same are not to be removed or taken away by the



Contractors, or any other person, without the special licence and consent of the Architect; but the employer is not to be in any way answerable for any loss or damage which may hapen to, or in respect of, any such work or materials either by the same being lost or stolen, or injured by weather or otherwise.

9.—The Architect is to have full power to require the removal from the premises of all materials which in his opinion are not in accordance with the specification, and, in case of default, the employer is to be at liberty to employ other persons to remove the same without being answerable or accountable for any loss or damage that may arise or happen to such materials; and the Architect is also to have full power to require other proper materials to be substituted; and, in case of default, the employer may cause the same to be supplied, and all costs which may attend such removal and substitution are to be borne by the Contractors.

10.—Should any of the works be, in the opinion of the Architect, executed with improper materials or defective workmanship, the Contractors are, when required by the Architect, during the progress of the work, forthwith to re-execute the same, and to substitute proper materials and workmanship, and, in case of default of the Contractors in so doing within a reasonable time, the Architect is to have full power to employ other persons to re-execute the work, and the cost thereof is to be borne by the Contractors.

11.—Any defects, shrinkings, and other faults which may appear within months from the completion of the building, and arising out of defective or improper materials or workmanship, are, upon the direction of the Architect, to be amended and made good by the Contractors at their own cost, unless the Architect shall decide that they ought to be paid for the same, and, in case of default, the employer may recover from the Contractors the cost of making good the works.

12. The Contractors are to insure the building against loss or damage by fire in an office to be approved, in the joint names of the Employer and Contractors, for half the value of the works executed, until it shall be covered in, and thenceforth until completion in three-fourths of the amount of such value, and are, upon request, to produce to the Architect the policies and the receipts for the premiums for such insurance. All moneys received under any such policies, are to be applied in or towards



**Appendix.** — the re-building or reparation of the works destroyed or injured. In case of neglect the employer is to be at liberty to insure and deduct the amount of the premiums paid from any moneys payable to the Contractors.

13.—The building, from the commencement of the works to the completion of the same, is to be under the Contractors' charge; they are to be held responsible for, and to make good, all injuries, damages, and repairs, occasioned or rendered necessary to the same by fire or causes over which the Contractors shall have control, and they are to hold the employer harmless from any claims for injuries to persons or for structural damage to property happening from any neglect, default, want of proper care, or misconduct on the part of the contractors, or of anyone in their employ, during the execution of the works.

14.—The Employer is at all times to have free access to the works, and is to have full power to send workmen upon the premises to execute fittings and other works not included in the contract, for whose operations the Contractors are to afford every reasonable facility during ordinary working hours, provided that such operations shall be carried on in such a manner as not to impede the progress of the works included in the contract, but the Contractors are not to be responsible for any damage which may happen to or be occasioned by any such fittings or other works.

15.—The Contractors are to complete the whole of the works (except painting and papering, or such other works as the Architect may desire to delay) within                      calendar months after the commencement of the same, unless the works be delayed by reason of any inclement weather, or causes not under the Contractors' control, or in case of combination of workmen, or strikes, or lock-out, affecting any of the building trades, for which due allowance shall be made by the Architect, and then the Contractors are to complete the works within such time as the Architect shall consider to be reasonable, and shall from time to time in writing appoint, and, in case of default, the Contractors are to pay or allow to the Employer as and by way of liquidated and agreed damages, the sum of £                      per week for every week during which they shall be so in default, until the whole of the works (except as aforesaid) shall be so completed,



**Appendix.**

provided the Architect shall in writing certify that the works could have been reasonably completed within the time appointed.

16.—If the Contractors shall become bankrupt, or compound with, or make any assignment for the benefit of their creditors, or shall suspend or delay the performance of their part of the contract (except on account of causes mentioned in Clause 15, or on account of being restrained or hindered under any proceedings taken by parties interested in any neighbouring property, or in consequence of not having proper instructions for which the Contractors shall have duly applied), the Employer, by the Architect, may give to the Contractors or their assignee or trustee, as the case may be, notice requiring the works to be proceeded with, and in case of default on the part of the Contractors or their assignee or trustee for a period of                      days, it shall be lawful for the Employer, by the Architect, to enter upon and take possession of the works, and to employ any other person or persons to carry on and complete the same, and to authorize him or them to use the plant, materials, and property of the Contractors upon the works, and the costs and charges incurred in any way in carrying on and completing the said works are to be paid to the Employer by the Contractors, or may be set off by the Employer against any moneys due, or to become due, to the Contractors.

17.—When the value of the works executed and not included in any former certificates shall from time to time amount to the sum of £                      , or otherwise, at the Architect's reasonable discretion, the Contractors are to be entitled to receive payment at the rate of 80 per cent. upon such value until the difference between the percentage and the value of the works executed shall amount to                      per cent. upon the amount of the contract, after which time the Contractors are to be entitled to receive payment of the full value of all works executed and not included in any former payment, and the Architect is to give to the Contractors certificates accordingly, and when the works shall be completed, or possession of the building shall be given up to the Employer, the Contractors are to be entitled to receive one moiety of the amount remaining due, according to the best estimate of the same that can then be made, and the Architect is to give to the Contractors certificates accordingly, and the Contractors are to be entitled to receive the balance of all moneys



**Appendix.** due or payable to them under or by virtue of the contract within months from the completion of the works, or from the date of giving up possession thereof to the Employer, whichever shall first happen. The Contractors are to be entitled to receive any sum reserved for painting and papering or otherwise on the completion thereof. Provided always that no final or other certificate is to cover or relieve the Contractors from their liability under the provisions of Clause No. 11, whether or not the same be notified by the Architect at the time or subsequently to granting any such certificate.

18.—A certificate of the Architect, or an award of the Referee hereinafter referred to, as the case may be, showing the final balance due or payable to the Contractors, is to be conclusive evidence of the works having been duly completed, and that the Contractors are entitled to receive payment of the final balance, but without prejudice to the liability of the Contractors under the provisions of Clause No. 11.

19.—If the Employer shall make default in paying any moneys to which the Contractors may become entitled, for days after the amount thereof shall have been certified, or if the works be delayed for months, by or under any proceedings taken by any other parties, the Contractors are to be at liberty to suspend the works, and to require payment for all works executed and all materials wrought up, and for any loss which they may sustain upon any goods or materials purchased for the works, and in such case the Contractors are not to be bound to proceed further with the works contracted for. The Contractors are to be entitled to such interest and at such rate as the Architect shall certify upon all moneys payable to the Contractors, payment of which may have been unduly delayed.

20.—Provided always, that in case any question, dispute or difference shall arise between the Employer, or the Architect on his behalf, and the Contractors as to what additions, if any, ought in fairness to be made to the amount of the contract by reason of the work being delayed through no fault of the Contractors, or by reason or on account of any directions or requisitions of the Architect, involving increased cost to the Contractors beyond the cost properly attending the carrying out the contract according to the true intent and meaning of the signed drawings and specification, or as to the works having been duly completed,



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or as to the construction of these presents, or as to any other matter or thing arising under or out of this contract, except as to matters left during the progress of the works to the sole decision or requisition of the Architect under Clauses Nos. 1, 9, and 10, or in case the Contractors shall be dissatisfied with any certificate of the Architect under Clause No. 7, or under the proviso in Clause No. 15, or in case he shall withhold or not give any certificate to which they may be entitled, then such question, dispute, or difference, or such certificate, or the value or matter which should be certified, as the case may be, is to be from time to time referred to the arbitration and final decision of Architect, or in the event of his death or unwillingness to act, then of (a) , Architect, or in the event of his death or unwillingness to act, then of an Architect being a Fellow of the Royal Institute of British Architects, to be appointed on the request of either party by the President for the time being of such Institute, and the award of such Referee is to be equivalent to a certificate of the Architect, and the Contractors are to be paid accordingly.

21.—Upon every or any such reference, the costs of and incidental to the reference and award respectively, shall be in the discretion of the Referee or Arbitrator who may determine the amount thereof, or direct the same to be taxed, as between solicitor and client, or as between party and party, or otherwise, and may award and direct by whom and to whom and in what manner the same shall be borne and paid, and this submission may be made a rule of any Division of the High Court of Justice upon the application of either party, who may instruct counsel to consent thereto for the other party without any notice being given to such party.

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(a) This blank should be filled in with the name of a Fellow of the Institute.



### Appendix. III.—PROFESSIONAL PRACTICE AND CHARGES OF ARCHITECTS,

Being those now usually and properly made, as confirmed at the Special General Meetings of the ROYAL INSTITUTE OF BRITISH ARCHITECTS, held 13th and 27th January, 1862.

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New buildings,  
&c.

1.—The usual remuneration for an Architect's services, except as hereinafter mentioned, is a commission of 5 per cent. on the total cost of the works executed from his designs; besides which, all travelling and other incidental expenses incurred by the Architect are paid by the Employer, who is also chargeable under certain conditions, as hereafter mentioned, for time occupied in travelling.

2.—But for all works in which the art required is of a high kind, and the expenditure mainly for skilled labour, and not for materials, *e. g.*, in designs for the furniture and fittings of buildings, for their decoration with painting or mosaic, for their sculpture, for stained glass, and other like works, the Architect's charge is not made by way of commission on the cost, nor does it depend upon the time employed in making the design, but is regulated by special circumstances, and varies according to the skill and artistic power of the Architect.

3.—A commission of  $2\frac{1}{2}$  per cent. is to be charged upon such works as sculpture, stained glass, and others of a similar nature, for which the Architect does not give the design, but arranges with the artists or with the tradesmen, and directs the work generally.

4.—In works under £500 in amount, 5 per cent. is not fairly to be considered as remunerative, and in such cases it is just to the Employer as well as to the Architect, to charge by time or by a scale, varying from 10 per cent. for works under £100, to 5 per cent. on amounts above £500.

5.—The commission is reckoned upon the total cost of the works, valued as if executed entirely by labour and of new materials provided by the Builder.

6.—The commission is to be charged upon the whole value of



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the work executed, with the addition of  $2\frac{1}{2}$  per cent. upon any omissions.

This is exclusive of the charge for measuring extras and omissions.

7.—The Architect is entitled during the progress of the building to payment on account at the rate of 5 per cent. on the instalments paid to the Builder, or otherwise to half the commission, on the signing of the contract, and the remainder by instalments as above.

8.—All travelling expenses are to be charged extra.

Travelling.

9.—These rules suppose the work to be executed within an easy distance of the Architect's office; but if the work be executed at a considerable or inconvenient distance from it, an allowance beyond the 5 per cent. ought to be made for the time occupied in travelling, in addition to the actual expenses.

10.—The percentage does not cover professional services in connection with negotiations for site, arrangements respecting party walls, or right of lights, nor services incidental to arrangements consequent upon the failure of Builders whilst carrying out work; but all such services are charged for in addition, the basis for charge being the time employed.

Extra services.

11.—Supposing that the Employer, after having agreed to the design, and the drawings prepared, should have material alterations made, an extra charge may be made according to the time occupied.

Alterations in design.

12.—If the Architect should have drawn out the design complete, with plans, elevations, sections, and specification, ready for estimate, the charge is half the usual commission above named.

13.—If the Architect should have, in addition, procured tenders, in accordance with the instruction of his Employer, the charge is one-half per cent. extra to the above.

14.—For works in the alteration of premises, the remuneration may be increased according to the time, skill, and trouble involved.

Alterations of buildings.

15.—All the following requirements for buildings are included in the ordinary charge of 5 per cent. :—

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